I N D E X.

N. B. To each article two numbers are annexed: the first points out the page, the second the section, in which the article is to be found. — When an article is to be found in different places, the numbers are disjoined by a semicolon.

Α

ABBOTS 70. 4 ABBREVIATE of adjudications 398. 43.; 403. 54. ABIDING by writings either fimple or qualificatè 726.69. ABSENCE, decrees in absence whether they have the force of res judicatæ 686. 6. Whether persons may be tried criminally in absence 733. 83.

ACCEPTANCE of deeds 445. 45. How proved or prefumed ib. See Bills. ACCEPTILATION 488. 8. ACCESSION, natural 157. 14. Industrial or artificial 158. 15. 16. ACCESSORIUM sequitur principale 166. 30. ACCESSORY to crimes 703. 10. Whether accessories may be tried before the principal 736.89. See Actions, Art and part.

ACCOMPLICES must be specially mentioned in criminal letters 735.88. Whether admitted as witnesses 739. 97. ACCOUNTS of merchants, shopkeepers, &c. how far probative 666, 4. See Current, Prescription. ACTIO redhibitoria 449. 10 Quanti minoris ib. ACTION 637. 2. Actions proceeded anciently on brieves ib. 3. Now on fummonfes 638. 3. Summary actions 640. 9. Actions real and personal ib. 10. Rei persecutoria et penales 642. 14. Private and popular 644. 17. Principal and acceffory ib. 18. Rescissory or extraordinary actions ib. et Declaratory 654. 46. Petitory 655. 47. Possessory ib. Accessory 656. 52. Concourse of actions 661. 64. Accumulation of actions ib. 65. When actions are faid to fleep 660. 62. See Prescription. ACTS of litifcontestation 664. 69. Before answer ib. Acts of the parliament of Scotland how promulgated 12. 37. Of Great Britain, whether they require formal promulgation ib. Private acts 13. 39. Black acts 13.37. See King. AcTs of federunt and regulations 13. 40. ADJUDICATIONS, special 396. 39.

General 397. 40.

 Have the fame nature with apprifings ib. 41. Adjudication on debts whereof the term of payment is not come 398. 42. Adjudger not the vaffal during the legal 399. Adjudications contra hereditatem jacentem 400. 47. Whether they carry the rents due previously to the decree ib. 48. Redeemable by posterior adjudgers, or the heir renouncing 401. 49. ADJUDICATIONS in implement 402. 50. 51. Whether these adjudgers are obliged to pay a year's rent to the fuperior ib. 52. Before what court these adjudications must be deduced 403. 53. Whether abbreviates necessary ib. 54. See Apprising. ADMINICLES. See Tenor. ADMINISTRATOR-in-law. See Father. ADMIRALTY, high court of, its civil jurifdiction 49. 33. 34. Criminal jurifdiction 50. 35. Admiral-deputes 50. 34. ADPROMISSORS 470. 61. ADSCRIPTI, or Adscriptitii 146. 60. ADULTERER and adulterefs, iffue of a marriage between them incapable to fucceed to them 634. 9. Whether the issue bastards 633. 6. ADULTERY 720. 52 Simple and notour ib. 53. See Divorce. ADVOCATES, members of the College of Juftice 41. 17 Whether habile witnesses for or against their clients 677. 25. ADVOCATIONS, on the head of incompetency 683. 40. Of intricacy ib. Of iniquity ib. 41. Style and import of letters of advocation ib. Not allowed for iniquity when the fum in debate does not exceed L. 12, 684. 43. Advocation of brieves 575. 60.; 577. 64. AFFINITY 87.8. See Confanguinity, Propinquity. AGENTS, whether habile witnesses for or against their clients 677. 25. AGŇATES 115. 4. ALIENS cannot hold or fucceed to a feudal right without naturalization 635. 10. ALIMENT to the heir in a ward fee 214. 6. To a fiar by a liferenter 333. 62. To indigent debtors in prison 696. 28. See Father, Wife. ALIMENTARY rights not arrestable 506. 7. Prescription of them 527. 17. ALLODIAL

I E X. N \mathbf{D}

ALLODIAL fubjects 180. 8. ALLOWANCE. See Apprifing. ALLUVIO 158. 14. ALTARAGES 70. 3. See Patron.

ANNAT or ann 368. 65.

What, in the law of Scotland ib. 66. How divided 369. 67.

Never in bonis of the deceased incumbent ib. 68.

ANNEXATION. See Church, Church-lands, Parifhes.

ANNEXED property of the crown 184. 14. ANNUALRENT. See Interest.

Annualrent, right of 168. 5.

Whether a proper feu, or only a fervitude affecting a feudal subject 303. 31.

The arrears debita fundi 303. 32. And preferable without an actual poinding

of the ground 304. 32. Extinction of rights of annualrent 305. 34.

ANNUITY of tithes 355. 39. ANNUS deliberandi 571. 54.

APPARENT heir, who 571. 54. Has the jus deliberandi ib.; 571. 54.; 572. 55. May fue for exhibition ad deliberandum 572. 56.; 573. 57.

Intitled to continue his ancestor's possession 574. 58.

Whether he transmits unuplifted rents to his executors ib.

May bring his ancestor's estate to a sale 406.

May fue liferenters for an alimony 333. 62. His right to fubjects which vest without fervice 584. 77

May fue reductions ex capite lecti 597. 100. Alienation by apparent heirs 184. 15.

Whether they may be made parties to a declarator of redemption without a previous charge to enter 299. 21.

Apparent heir-male 573. 57. What if an apparent heir possess any part of his ancestor's estate, or purchase any right affecting it 588.85.

APPEALS, the ancient method of bringing under review the judgements of inferior courts 682.39.

From the fession to the parliament of Scotland 43. 20.

To circuit-courts 47. 28.

To the House of Peers 684. 2.

Appeals to the House of Peers, within what time they must be made, 530. 21.; 684.2. Effect of ferving a writ of appeal 684. 2.

APPRENTICES 147. 62.

APPRETIATION in poindings 515. 23. APPRISING or Comprising 377. 1.

Originally a proper fale ib. 2. Form of apprifing 378. 4. et feqq.

What subjects apprisable 379. 6. et seqq. Upon what debts apprifing might proceed 381.9.

Legal reversion of apprisings 382. 10. What if the debtor be minor ib.

Apprising on a charge to enter heir ib. 11. et segg.

Denunciation in apprifings renders the lands litigious 384. 16.

What if the apprifer be in mora 385. 17.

Competition between a decree of apprifing and arrestment 385. 17

Apprifer in possession must apply the furplus rents to extinction of the principal fum 386. 19.

An apprifer excluding others from the poffession liable in diligence 387. 20.

An apprifer's possession may be restricted to fuch part of the lands as answers the interest of his debt ib. 21.

Competition between apprifings and other real rights or diligences 388.23.

Composition to the superior ib. 24. What if the fuperior refused to enter the

apprifer 389. 25; 390. 27. Whether he is obliged to enter corporations ib. Whether the fuperior intitled to a conveyance of the apprifing, upon offering payment of the debt, or value of the lands

Allowance and recording of apprifings 390. 26.

Some apprifings complete without feifin 391. 28.

Whether apprifing by the superior requires feifin ib. 29.

Preference of apprifings ib. 30. et fegg.; 409.65. Apprifings purchased by the debtor's heir

394.34. Reduction of apprifings, and restricting

them to a fecurity ib. 35.

Apprifings by Papists do not expire 395.

Whether purchasers of apprisings affected by the personal declarations of the creditor 395. 36.

Redemption of apprifings 395.37.; 396.38 Whether apprifers might use personal diligence against the debtor 398. 44. See Adjudications.

APPROBATE and reprobate 465. 49. ARBITERS, whether they may be compelled to decide 698. 30.

Have no jurifdiction ib. 31.

Cannot exceed their powers ib. 32. Their powers amply interpreted 699. 32.

Where there are feveral arbiters, whether they must all concur 699. 34.

Proof taken before arbiters who have not decided, whether received as evidence 700. 36. See Submission.

ARBITRARY punishment never extended to death 705. 15.
ARRESTMENT of perfons 504. 2.

Of parties in meditatione fuga 30. 21. Within boroughs-royal 30. 22.

ARRESTMENT of moveables 504. 2.

Warrant of it ib. 3. On a dependence ib.

In whose hands it may be used 505. 4. 5. What may be attached by arrestment 506.

6. 7.; 507. 8.

Arrestment of debts which carry a yearly profit ib. 9.

On what debts it proceeds 508. 10.

Effects of it 509. 11.

See Boroughs-royal, Breach, Loofing, Competition.

ARRESTUM

ARRESTUM jurifdictionis fundanda causa 28. Whether it carries a right to regalia 260. ARRIAGE and carriage 269. 42. BASE right, whether agreeable to the principles of the Feudal law 282. 8. ART and part 703. 10. By mandate 704. 11. Anciently prohibited in Scotland ib. Difference between base and public rights By advice ib. 12. By affiftance ib. 13. 283.9 Indictment libelling art and part, need not Competition between them 283. 10.; 284. be special 736. 89.
ARTICLES, committee of 36. 5. 11. 12. Distinction between them taken way 284. ASCENDANTS, fuccession of 546. 9. 10. 12. ASSASINATION 717. 45.
ASSIGNATIONS, difference between them Confirmation not precifely necessary in base rights 283.9. BASTARDS 109. 51. and difpositions 280. 2.; 497. 1. What rights affignable 497.2. Have no heirs but their own iffue 632. 6. Intimation of affignations 498. 3. Their power to make fettlements ib. Assignations retenta possessione 499. 5. Whether the iffue of a marriage between an adulterer and an adultress bastards 633. Import a conveyance of corroborative rights and diligences 502. 8. Legitimation of bastards ib. 7. Affignation in folutum, and in fecurity Whether capable of legal fuccession ib. 8. BATTERY pendente lite 713.37. BEASTS, wild, the property of them how ac-Whether the oath of the cedent proof against the assignee 502. 9. 10. quired or retained 155. 10. Necessary affignations 503. 11. See Intimation, Warrandice.

ASSYTHMENT 743. 105. BEES, the property of them how acquired or retained 156. 10. ASSIZE 737. 92. BEGGARS, sturdy 714. 39. Of error 741. 101. ASTRICTION. See Thirlage. BEHAVIOUR as heir. See Gestio. BENEFICES, temporality and spirituality of ATHEISM 705. 16. them 337. 4. Erection of benefices into temporal lord-ATTAINDER, whether an attainted person may acquire a feudal right 185. 16. ships 345. 18. See Treason. See Stipend. ATTESTERS cautioners for cautioners in BENEFICIUM cedendarum actionum 409.66.; fuspensions 475.71. AVAIL. See Marriage. 473.68. competentiæ 483.89. AVULSIO 158. 14. - divifionis 471.63. - inventarii. See Entry. - ordinis, or of discussion 470. В 61. What understood to be discussion 471. 61. BACK-TACK in wadfet-lands 302. 28. Cautioners, though intitled to this benefit, BAIL 734. 85. BAILIE court 62. 21. 22. may be fued on the fame fummons with the principal debtor ib. Cautioners bound conjunctly and feverally Bailie in giving feifin 195. 33. BAIRNS of a marriage 568.48. not intitled to this benefit ib. Cautioners that another shall perform a fact, Bairn's part. See Legitim. always intitled to it 471.62. BANKRUPT, who 648.28. Notour bankrupt 652. 41.; 653. 42. Cautioners in fuspensions, whether intitled Alienation by bankrupts. See Reduction. to it 475. 72. BANKRUPTĆY, fraudulent 731.79. Whether cautioners in loofing of arrest-BANS, publication of 88. 10.
BARATRY 711. 30.
BARGAINS, concerning moveables and fums ments ib. Note. BESTIALITY 722. 57. BIGAMY 720. 54. BILL of exchange 435.25. of money, prescription of 530. 20. BARON 35. 3. Whether it proves its own date ib. Forms effential to bills 436. 26. 28. His right to fit in parliament ib. 36. 4. Indorfation of bills 436. 27. His jurisdiction 63. 25.; 64. 26. 28.; 65. Obligations on the drawer, and person drawn on 437. 29. 30. Confidered as cash *ib*. 31. Whether his jurisdiction be communicable Whether a baron may prohibit the import-Must be negotiated 438. 32.; 439. 33. In order to preserve recourse 439. 34. ing and vending ale within the barony 254.8. Privileges of bills of exchange by ftatute His right to heirship-moveables 550. 17. 440. 35. 36.; 441. 37. BARONY, its effects and privileges as to fei-Extended to inland bills 441.38. fin 203.46. Endurance of the extraordinary privileges

of bills ib. 37.

Certain bills not privileged ib.

9 G

Bills

As to jurifdiction 203. 47.

Vol. II.

Other privileges of a barony 259. 18.

Bills extinguished by taciturnity 533. 29. Debts due by bill not arrestable 506. 7. Bear interest 477.77

BISHOPS, to whom that title anciently given 60. 2. 1

Election or nomination of 71.7.8.

Confecration 72. 8. Jurisdiction 80. 25

BLACK mail 724. 64. BLANCH holding 209. 7

Its resemblance to the feudum francum ib. Blanch-duties, whether due if not demand-

ed within the year ib. BLANK. See Bond, Summons.

BLASPHEMY 705. 16.
BONA et mala fides. See Possession, Prescription.

See Heritable. BONDS.

Taken to heirs and executors 172. 11. To heirs-male, or a feries of heirs ib. Bonds feeluding executors 172. 12. Blank in the creditor's name 428. 6.

BORDER-warrants 28. 19.; 29. 21. BOROUGH of barony and regality 65. 30. Election of their magistrates ib.

Nature of their jurisdiction 62.21. Their jurisdiction cumulative with that of

the superior 65. 30. How far affected by the jurisdiction-act ib.

Erection of boroughs of regality or barony into royal boroughs, with or without the confent of the lord of regality or baron, what the effect of it 210. 8.; 230. 43.

Boroughs-royal, election of the common council 62. 20.

Jurisdiction of the magistrates 62. 21.

By which of the magistrates that jurisdiction is exercifed 62. 22.

Powers of the magistrates and town-council as to police, and the common interest of the borough ib.

Power of the magistrates as to ruinous and uninhabited houses 62. 21.; 528. 18.

The rents of their revenues may not be let for more than three years 184. 15.

Whether they may prohibit the importing and vending of ale in the borough 254. 8. Usage as to building contiguous tenements in boroughs 310.9.

Whether lands belonging to boroughs-royal may be feued 184. 15.

Magistrates of royal boroughs may arrest unfree goods 513. 19.

Must receive into their prisons persons apprehended by warrant from the justices of peace 60. 17.

See Arrestment, Convention, Headboroughs. BOTTOMRY 452. 17.

BREACH of arrestment 510. 14.; 713. 36. BREVE testatum 186.17

BREWING, the right of, implied in property 254. 8. BRIEF. Anciently all actions proceeded on

brieves 637. 3.

Brieves retourable and not retourable ib.

BRIEF of distress 304.33. BRIEF of inquest 575.59. Proceedings in it 575. 60.

Must be retoured 576.61.

Brief for a general fervice, to what judge directed 577. 64.

Brief for a special service 577.64.

Brief of mortancestry 576.62.

BRIEF of tutory 117. 6.

BRIEF of idiotry 140. 49. 50.

BRIEF of terce 328. 50.

BRIEF of perambulation 655. 48.

See Action, Inquest, Service, Terce, Perambulation.

BURDENS, real burdens on land must be expressed in the investiture 204. 48.

What understood by the investiture in such cafe 206. 51.

What words constitute a real burden 205.49. Effect of a clause burdening the lands with

the disponer's debts in general 205. 50. Import and effect of a referved faculty to burden ib.

BURGAGE holding 210.8.

The Reddendo watching and warding ib. The particular heritors hold of the crown

210. 0. Difference between burgage-lands and lands

held of the borough 211.9 BURGESS has a right to heirship-moveables

550. 17. BURGH. See Borough.

BURIAL-places 155. 8.

Whether a right to them passes as pertinent to lands 256. 11.

CALUMNY, oath of 672. 16.

CANON law. See Law. CANONS, or Prebendaries 69. 3.

CAPTION, letters of 688. 12.

Magistrates or messengers refusing to concur, are liable for the debt 689. 13.

How proceeded against in such case ib. In what cases caption may be staid without fuspension 694. 25.

See Diligence, Protection, Sanctuary, Super-

CASUALTIES of fuperiority 213. 5. et fegg. Fall by the reverfer's death during the legat

See Escheat, Liferent, Marriage, Nonentries, Recognition, Relief, Ward. CASUS amissionis. See Tenor.

CATHEDRAL 69. 3.

CAUTION, juratory 692. 19.

Judicio sisti et judicatum solvi 29. 19.; 475.

CAUTIONARY obligations, limitation of them 530. 22. et feqq.

Interruption of the limitation 542. 46. CAUTIONERS, fimple 470.61.

Bound conjunctly and feverally 471. 61.

For performance of facts ib. 62.

Cannot be bound in a higher fum than the proper debtor is, but may more ftrictly 472.64.

Whether co-cautioners bound to the creditor in folidum 471.63.

Cautioners have relief against the debtor 472.65.; 473.67.

Whether

N D E X

Whether the cautioner bound after his right of relief is cut off 473.66.

Mutual relief among co-cautioners ib. 68.; 474.70.

Relief competent to a cautioner in a bond of corroboration 474.69. See Beneficium.

CAUTIONERS in suspensions 474. 71.; 475.

CERTIFICATION in a special charge against an heir 383. 12.

In a general charge ib.

CERTIFICATION in fummonfes 639.7.

CERTIFICATION in a reduction-improbation 644. 19.

In fimple reduction 647. 24.

CESS bears interest after it has been fix months

due 477. 77. CESSIO bonorum 695. 26.; 696. 27.

CHAMBERLAIN 52. 38.

CHAPEL, chaplain, 70. 3. See Patron.

CHAPTER 72. 8.
Consent of the chapter necessary to leases or deeds of alienation by bishops 338. 5.

CHARGE to enter heir 382. 11.

Either general or special 383. 12. General special charge ib. 13.

The heir may be charged intra annum deliberandi 384. 15.

CHARGE on letters of horning 235. 55.; 688.

CHARGE turned into a libel 693. 22.

CHARGE against superiors by heirs 585. 79. By adjudgers 389. 25.; 392. 31.

CHARTER 187. 19.

A me or de me 187. 20.

Original or by progrefs 188. 20.

Voluntary or necessary ib.

Charters begin with the name and addition of the granter 188. 21.

Narrative or recital 189. 22.

Dispositive clause ib. 23.

Clause De novo damus ib.

Clause Qua quidem 190. 23.

Clause Tenendas 190. 24.

Reddendo ib.

Claufe of warrandice 190. 25.

Precept of seisin 195. 33.

A charter without seisin creates only a perfonal right 204. 48.

Charter of union 202. 45.

See Claufe, Union.

CHARTER-party 451. 17: CHAUD mella 715. 50.

CHILD-murder 718. 48.

CHILDREN, lawful 108. 49. 50.

Natural, or baftards 109. 51.

Legitimated by fubsequent marriage ib. 52. How far children acquire to their father

110.53. See Father. CHURCH, ancient division of the Christian

into diftricts 69. 2.

Origin of its patrimony 336. 2. And its claim to tithes 337. 3.

CHURCH-government, its changes fince the Reformation 70. 5.

Churches, reparation of them and churchyard dikes 367. 63.

Whether a right in the area of a church passes as pertinent to lands 256. 11.

Annexation of lands to churches quoad facra 368.64.

Church-lands, could not be alienated by prelates without the confent of the chapter or conventual brethren 337. 5.;

What requisite in alienations by the inferior clergy ib. 7

Restraints laid on churchmen after the Reformation as to feuing and letting leafes ib. 339. 8.

Church-lands annexed to the crown 345.

Exceptions ib.; 346. 20. 21.

CHURCHMEN, whether they may be Lords of Session 40. 13.

CIRCUIT-courts 46. 26.

Their civil jurisdiction 47. 28.

Prefentments and informations in order to

trial before them 735. 86. CIRCUMDUCTION of the term 679. 32.

CIRCUMSTANTIATE proof in criminal trials 740. 98.
CIRCUMVENTION a ground of reduction

647. 27. CITATION, interruption of the negative prefcription by 538. 38.

Of the positive prescription 539. 39. CITATION-edictal of tutors and curators

640. 8. See Edictal. CIVIL. See Law.

CLARE constat, precept of 580. 71.

CLAUSE pro omni alio onere, what it imports

Clause-irritant, its import and effects 222.

Clause cum maritagio in feu-charters 223. 28.

De non alienando ib.

That the fuperior shall have the first offer in cafe of a fale ib.

Clause cum molendinis 252. 5.

Cum molendinis et multuris 315. 22.

Cum aucupationibus, venationibus, piscationibus 253. 6.

Cum cuniculis et cuniculariis 253. 7.

Cum columbis et columbariis 254. 7 Cum frabilibus, brasinis, et brueriis ib. 8.

Cum herezeldis 255. 10.

Cum libero exitu et introitu ib. 9.

See Charter, Entails.

Clause of substitution 565. 44.

Of return 565.45.

CLAUSES, doubtful, in obligations to be interpreted against the granter 482. 87. General, in deeds containing particular ones,

the effect of them 488. 9.

Irritant and resolutive in entails 555. 25.

CLERGY, secular 69. 3.

Regular 70. 4.

Provisions for the maintenance of the Reformed clergy 344. 17.; 359. 46. et feqq. See Stipend.

CLERKS to the fignet 52. 39.

Are members of the College of Justice 416

COGNATES

COGNATES 115. 4. No legal fuccession by cognates 546. 9. COGNITION, action of 655. 48. COIN gradually debased in Scotland 184. 14. COLLATERAL fuccession 545. 8. COLLATION, or Inftitution 77. 18. When necessary ib. 19. COLLATION by an heir 600. 3. Among the younger children 611. 24. 25. COLLEGE of Justice, its institution 39. 12. Members of the College of Justice, who 41. Their privileges 31. 24.; 41. 17.; 43. 19. These privileges communicated to the court of Exchequer 48. 30. See Seffion. COLLIERS and falters 146. 61. COMBAT, anciently used as proof 665. 2. See Duelling COMMENDAMS and commendators 70.4. COMMISSARIES, the original of them 80. 25. By whom named 81.27 Their privative jurisdiction 82. 29. Their cumulative 83. 30. Commissary-court at Edinburgh, the erection of it 81.26. Its proper district ib. In what respect supreme 82. 28. Its proper jurisdiction 84.31. COMMISSIONS for plantation of kirks and valuation of teinds 78. 21. Constitution of that court ib. 22. COMMISSIONERS of fupply 65. 31. COMMISSORIA, pactum legis commissoriæ in wadset-rights 296. 14. In moveable pledges 424. 33. In fale 449. 11. COMMITTEE of articles. See Articles. COMMIXTION 159. 17. COMMODATE 419. 20. 22.; 420. 23. 24. COMMON debtor 504. 2. law. See Law. _____ pasturage 312. 14. 15. 16. COMMONTY 152. 1. Division of commonties 468. 56. 57.; 469. COMMUNION of goods 89. 12. et feqq. COMMUNION-elements 360. 50. COMPANIES, public trading ones 456. 28. COMPENSATION, its effects 490. 11. 12. In what debts it takes place 491. 13. 14. 15.; 492. 16. 17.; 493. 18. Not admitted after decree 493. 19. COMPETENT and omitted 684. 3. COMPETITION in escheats 245. 75. et segq. See Escheat. In confirmation to vaffals 285. 14. 15. In refignations 289. 23. In personal rights of lands 290. 26.

Between inhibitions and other diligences 375.

Among apprifings 391. 30. et feqq.; 409. 65. Between apprifings and other real rights or

Between apprifings and arrestments of the

Competition in diligences pendente processu

13.; 376. 16.

rents 385. 17.

409.65.

diligences 388. 23.

Of catholic with special rights 409. 66. See Apprifing. Among personal creditors 504. 1. Among affignees 498. 3. Among arresters 512. 18. Between arrefters and affignees 513. 19. Between arrefters and affignees under a commission of bankruptcy ib. Between an arrester and a poinder 514. 21. Between creditors of a defunct and those of the heir 598. 101. Between creditors of a defunct and those who claim under deeds granted by the heir within a year of the ancestor's death 599. 102. For the office of executor 615. 32. Among creditors or legatees of a defunct 622. 43. et feqq. Between creditors of a defunct and those of the next of kin 624. 46. COMPRISING. See Apprifing. CONCLUDED cause 680. 32. CONDITIO si sine liberis 566. 46.
CONDITIONS annexed to obligations 412. 6.; 413. 7.; 449. 11.; 480. 85. CONFESSION by a pannel, judicial and extrajudicial 739. 96. See Probation. CONFIRMATION of a testament 613. 27. On general letters forbidden 616. 33. Where a testament must be confirmed 613. 28.; 614. 29. Not necessary of subjects specially assigned 614. 30. Nor of special legacies ib. Nor of fubjects falling under the legitim and jus relictæ ib. Nor of moveables capable of actual poffeffion 615. 30. Confirmation of part by the next of kin carries the whole executry ib. Confirmation by an executor nominate establishes the right in the next of kin ib. Form of proceeding in confirmations 615. 31. Confirmation qua executor-creditor 617.34. Confirmation ad omissa vel male appretiata 618. 36. 37 Ad non executa 619. 38. CONFIRMATION by a fuperior. See Base right, Public right. CONFUSIO, a mode of acquiring property 150. CONFUSION, a method of extinguishing obligations 495. 23. 24.; 496. 25. 26. Sometimes operates only a temporary fufpension of the obligation ib. 27. CONJUNCT rights 559. 34. To ftrangers 560. 35. To father and fon ib. To husband and wife 560. 36. CONJUNCT and confident persons 649. 31. CONQUEST, provision of, in a marriagecontract 564. 43. See Heir.

CONSANGUINITY and affinity, degrees of,

Affording

forbidden in marriage 87. 9.

Χ, Ι N \mathbf{D} \mathbf{E}

Affording a ground of declinature against a judge 34. 31.

Affording an objection to a witness 676. 24. CONSENT requifite to obligations 416. 16.

Obligations may be extinguished by confent

CONSENT, effect of figning as confenter 188. 21.; 101. 20

CONSERVATOR of Scottish privileges 67.

CONSIGNATION of money 423. 31.

Of redemption-money 298. 19.

Of a debt stops the currency of interest against the debtor 487. 5.

Is equal to payment 488. 5. In improbations 726. 68.

See Heritable.

CONSISTORIAL court. See Commissaries. CONSOLIDATION of the fuperiority and

property 287. 19. 20.; 586. 81. CONSTABLE, High, 51. 37.

Inferior heritable constabularies ib. Peace-conftables 60. 16.

CONTRACT 416. 16. Real contracts 417. 17.

Innonimate 425. 35

Verbal 426. 1. et seqq.

Literis 427. 5. et seqq.
Perfected by consent alone 445. 1. et seqq. Contracts, when proveable by witneffes 674. 20.

Implement in contracts must be mutual 481. 86.

CONTRACT of marriage, import of some expressions used in them 457. 30.

Defective in the legal folemnities homologated by marriage 465. 48.

Special fettlements in contracts of marriage, effects of them 561. 38. et feqq.

Provision of conquest in a contract of marriage 564. 43.

Second-marriage contract ib. 42.

See Provisions.

CONTRAVENTION by an heir of entail 557.

Effect of it 558. 31.

How titles to be made up in the case of contravention ib. 32.

See Lawborrows.

CONTRIBUTION. See Rhodia. CONVENTION, of boroughs 62. 23.

Of estates 36. 6. COPARTNERY. See Society.

CORPORATIONS 148. 64.

How constituted ib. Their powers ib.

How diffolved ib.

Things belonging to corporations 154. 7. Whether corporations may oblige fuperiors

to enter them 390. 27.

CORREI debendi 476. 74.
CORROBORATION, extent of the relief competent to cautioners in bonds of corroboration 474. 69. Whether bonds of corroboration fall under

the statutory limitation of cautionary engagements 531.23.

COUNCIL. See Privy, Daily, Seffion.

COURTESY, or curiality, what, and the foundation of it 329. 52.

Vol. II.

How it differs from the terce 329. 53.; 330.

What the fubject of it 329. 54. By what burdens affected 330. 55.

COURTS, inferior, which of them may fit during vacation without a difpensation 67. 36.

See Head-courts, Session, Exchequer, &c.

Courts-martial 51. 36.

CREDITORS, how fecured against alienation by their debtors. See Reduction, Competition.

CRIME 700. 2.

Crimes must be prosecuted either by the party who has fuffered, or the King's Advocate 701. 2.

Transgression of prohibitory statutes, whether properly criminal ib. 4.

Who incapable of committing crimes 702. 5. 6.; 703. 7.

An attempt to commit a crime, whether the fubject of a criminal profecution 703.9.

How far the authority of a superior an excuse or alleviation in crimes 704. 14. Crimes, how divided in respect of the pu-

nishment 705. 15. How in regard of the object ib. 16.

Against God ib. et feqq.

Against the state 706. 19. et Jegg.

Offences against laws enacted for the police or good government of the country 714. 38. et seqq.

Crimes against the life of particular persons

715. 40. et seqq.
Against their limbs, or other members of their body 719. 50. et seqq. Against their chastity 720. 52. et seqq.

Against their property 722. 58. et seqq. Against their good name 731.80.

Who may be tried criminally 732. 82.; 733.

Form of trial for crimes 735. 87. et feqq. Diets in criminal trials peremptory 736.90. Must be proceeded in with open doors 737.

Crimes must be tried by an inquest ib. 93. Probation in crimes 738. 94. et feqq. Extinction of crimes by the death of the

criminal 742. 103. By his undergoing the punishment 742. 104. By pardons or remissions 742. 105. et feqq. By acts of indemnity 743. 106.

By forgiveness and reconcilement 744. 108. By prescription 744. 109. See Bail, Prisoner, Probation.

CRIMINAL letters 735. 87.

Names of accomplices or affociates must be inferted 735. 88.

CROWN, its annexed property 184. 14. See King.

CULRACH 56. 8.

CURATORS named by the father 118. 11. Chosen by the minor 119. 11,

How chosen ib.

Curator bonis 119. 13. Ad lites 120. 13

See Father, Hufband, Idiots, Inventory, Tutor.

CURRENT rent 507.9. Account 528. 17.

CURSING

CURSING of parents 718. 47. CUSTOMARY or unwritten law. See Law.

D

DAMAGE and interest 481. 86.; 642. 14. DAILY council 39. 11.
DARDANARII 714. 38.
DEAD's part 608. 18 Whether increased by a renunciation of the jus relictæ 608. 20. DEAF and dumb perfons. See Dumb. DEAN of guild 63. 24. DEATHBED, law of 594. 95. What constitutes a deathbed-deed ib. 96. What rights may be fet aside ex capite lecti 395.97.; 596.98. Reduction ex capite lecti, to whom competent 597. 99. 100. DEBITA fundi 212. 2. What nonentry-duties debita fundi 230. 42. Preference of adjudications on debita fundi 306. 37. Actions on debita fundi 641. 11. et feqq. DECENNALIS et triennalis possessio 535. 33. DECIME garbales 342. 13. DECIMÆ inclusæ 343. 16. DECIMÆ rectoriæ 342. 13. DECISIONS of the fession, their authority DECLARATOR. See Nonentry. DECLARATORY, laws 7.23. See Actions. DECLINATURE of judges 31. 24. 25. 26. DECREES either in foro or in absence 684. 3. Of the fession in foro contentioso when rever-When opened by fulpenfion, and when by reduction 686. 8. Decree-conform 687. 9. See Absence, Foreign. DECREE-dative 616. 32. Decrees-arbitral 697. 29 How carried into effect 698. 31. Favourably interpreted 699.33. Reduction of decrees-arbitral 699. 35. DECRETALIA 9. 28. DECRETUM 9, 28.
DEEDS. See Writings.
DEFAMATION. See Injury. DEFENCES or exceptions 662. 66. Dilatory defences ib. When and how they must be pleaded and proved 662. 67. Peremptory defences 662. 66. How they may be pleaded 663. 68. DEFORCEMENT of public officers 712. 32. Whether it may be profecuted where there has been no bloodshed 713. 34. Deforcement of messengers 712. 33. Of officers of the customs or excise 713.

DELEGATION 494. 22.

Exhibition, Jus.

DELICTS 700. 2.

DELIBERATING, right of. See Apparent,

Unless there was litifcontestation upon them in the lifetime of the delinquent 664. 70. DELIVERY of writings 443. 43. When prefumed ib. Certain deeds effectual without delivery 444. See Tradition. DEMEMBRATION 719.50. DENIZATION, letters of 635. 10. DENUNCIATION 236. 56.; 237. 57. Effects of it 237. 58. et seqq. Origin of it in civil debts 238. 59. Denunciation at the market-cross of Edinburgh 689. 12. DEPOSITATION, contract of 421. 26. 27. DEPOSITATION of writings 443. 43. DESCENDENTS, line of 86. 8. Succession of descendents 544.5.6. DESERTION. See Divorce. DESIGNATION of manfes and glebes. See Manses, Glebes. DESIGNATION of witnesses, a folemnity of deeds 430. 11. DIETS of compearance in criminal trials peremptory 736. 90. See Summons. DILIGENCE against debtors 370. 1. Diligences not narrowed by partial payments 410.67. Inchoate or begun diligence 373.7.; 385. 16.; 651. 40. Where to be published and registered 54. DILIGENCE, perfonal, not known in our most ancient law 687.9. On what decrees it may proceed 690. 16. Who exempted from it 694. 24. 25. DILIGENCE or care requifite in contracts 419. Prestable by tutors and curators 125.22.; 127. 26. Prestable by executors 621. 41. DILIGENCES against witnesses 664. 71.; 679. DISCHARGES of obligations 488. 8. Solemnities requisite to them ib. 9. General discharges 489. 9. Confecutive discharges for three terms or years *ib*. 10. DISCLAMATION 234. 51. DISCUSSION of debtors 470. 61. Of heirs 570. 52. et seqq. DISJUNCTION. See Parishes. DISPOSITION. See Charter. Difference betwixt dispositions and affignations 280. 2. DISTRESS, payment on 477. 78. DIVISION of commonties 468. 56. 57.; 469. 58. Of runrig lands 469. 59. DIVORCE 105. 43. Whether it bars a fecond marriage ib. For wilful defertion 106. 44. Purfuer in a process of divorce must swear that there is no collusion 107. 45.

Effects

Actions arising from delicts do not pass a-

gainst heirs 642. 14.

Ι N D E X.

Effects of divorce for defertion 107. 46.

For adultery ib. 48.

A woman divorced for adultery, and marrying the adulterer, cannot alienate heritable rights to the prejudice of the heirs of the former marriage 183. 13.

Nor may one effectually acquire from her

185. 16.

DOLE effential to crimes 702. 5. Whether properly divided into true and prefumptive 703. 8.

DOMICIL 27. 16.; 614. 29. DOMINIUM directum 181. 10.

What included in it 212. 1. et feqq.

Eminens 152. 2.

Dominium utile 181. 10.

What is comprehended under it 250. 1.

DONATARY to escheats 239. 62.

DONATIONS 482.88.

Pactum donationis, what right it confers 483. 90.

Whether donations revocable for ingratitude ib.

Remuneratory donations ib. 91.

Donations mortis causa 484. 91.

Donations not prefumed 484. 92.

Especially from a debtor 405. 93.

Donations between husband and wife 98. 29. 30.

May be revoked expressly or tacitly 99. 31. What if the fubject gifted be alienated by the

donee 100. 32.

DONATIONES propter nuptias 107. 46.

DOVECOTS, who may build them 254. 7.

DRAWN teind 347. 24.

DROIT d'aubeine 636. 10.

DUELLING 718. 49.

DUMB and deaf persons from the birth, whether curators may be named to them 140.48.

Whether capable of entering into contracts 417. 16.

By the first feudal rules incapable of succeffion 634. 9.

DYVOUR's habit 696. 27.

\mathbf{E}

EARLDOM or lordship, erection of lands into, what it imports 203. 46.

EARNEST, the effect of it in fales 447. 5. EDICTAL citation 28. 18.

EDINBURGH, the commune forum to persons abroad 28. 18.; 510. 14.; 614. 29.

EGYPTIANS, or gypfies 724.64. EJECTION, action of 643. 15.

Letters of 691.17.

EIK. See Reversion.

EMPHYTEUSIS 208. 6.

ENTAILS 552. 21.

Not effectual without the fuperior's confent 281.5.

Entails containing a fimple destination 553.

With prohibitory clauses 553. 23.; 554. 24.

With irritant and refolutive clauses 554. 25. Solemnities effential to entails 555. 26. 27.; 556.28.

Entails strictissimi juris 556. 29.

Termination of entails 559. 32.

The King may purchase entailed lands for erecting buildings or making fettlements

559. 33. Heirs of entail may fell fuperiorities to the vaffals ib.

See Contravention, Heir.

ENTRY of an heir cum beneficio inventarii

579. 68.; 580. 69. 70. By precept of Clare constat 580. 71.

By hasp and staple 581. 72.

See Service.

EQUITY, the fession and the supreme judicatory of every state, a court of equity 44. 22. ERECTION of lands into a barony 63. 25.;

203. 46.; 259. 18.

Of benefices into temporal lordships 345.

Superiorities of erection belong to the crown 240. 28.

ESCHEAT, fingle, fometimes falls without

denunciation 237. 57.
Whether burdened with the debts of the rebel ib. 58.

What falls under it 239. 61.

How made effectual, and when a declara-

tor necessary 239. 62.; 240. 63. Whether lords of regality have a right to

the fingle escheat of rebels residing within their jurisdiction 240. 64.

Liferent escheat, when it falls 241. 66.

Ground of it ib.

Not affected by any voluntary deed of the rebel after it falls 242. 67.

Who intitled to this cafualty ib. 68.; 243.

What falls under it 243. 70. 71. Whether common to all holdings 244. 72. Whether declarator necessary 244. 73.

General declarator 245. 73.

Special declarator ib. 74

Competition between donataries of escheat ib. 73.

Between them and the rebel's creditors ib. 75.; 246.76.

Rules peculiar to competitions in fingle efcheats 246. 77.

In liferent escheats 247. 78.

Burdens affecting liferent escheat 247. 79. Gifts of escheat may be set aside if granted

before denunciation, or without reference to a particular horning 248. 80.

Or on fimulation ib. 80. 81.

Single and liferent escheat now incurred in the case of crimes only 238. 59.

ESTATES. See Convention. EVICTION. See Warrandice.

EXCAMBION 192. 28.

See Warrandice. EXCEPTIO rei judicata 685. 4.

EXCEPTIONS or defences, in what cafe they

prescribe 524. 11. EXCHANGE, bills of. See Bills.

EXCHEQUER,

EXCHEQUER, court of 48. 30. 31. 32. EXCOMMUNICATED persons could not formerly hold lands 185. 16. Formerly incapable of fuccession 634. 9. EXCOMMUNICATION, civil penalties consequent upon it taken off 185. 16. EXCULPATION, letters of 736.90. Witnesses may be received for the pannel's exculpation without a formal citation 741. EXECUTION of fummonfes or letters 235. Written executions, their folemnities 432. Executions of meffengers, how far probative 666. 5. Execution of decrees 687. 9. See Diligence. Of criminal fentences suspended in point of time 741. 102. EXECUTORS 599. 1. Cannot be named verbally 601. 5. Strangers named 612. 26. Who preferred to the office 615. 32. Only trustees 616. 33. Executors-creditors 617. 34. 35. If there are feveral executors, they hold the office pro indiviso 620. 40. Executors do not reprefent the deceafed 621.41. Not liable ultra vires inventarii ib. Cannot assign to the prejudice of the creditors of the deceased 621. 42. What order they must observe in paying the debts of the deceased 622. 43. et seqq: Exoneration of executors 624. 47. See Confirmation. EXECUTRY, what debts affect it 609. 22.; 625. 48. EXERCITORS 462. 43. 44.; 463. 45. EXHIBITION of writings 657. 52. Exhibition ad deliberandum 572. 56. What writings may be called for 573. 56. To whom competent ib. 57. EXTENT, old and new 225. 31. et feqq. EXTRACTS of judicial proceedings, how far probative 667. 6. EXTRINSIC. See Qualities.

F

FACILITY of temper 143. 54.; 648. 27. FACTOR on fequestrated estates 404. 57. et

Liable for interest 478. 78.

Factor loco tutoris 118. 10.

Arrestment in the hands of factors 505. 4. FACULTIES not lost by prescription 523. 10. FALSE weights and measures, the punishment for using them 725. 66. FALSEHOOD 44. 21.; 725. 66. Statutory falsehood by subscribing as witness without seeing the party subscribe 728. 73. See Forgery.

See Forgery.

FAMILY, children in 110. 53.; 111. 55;; 610. 23.

FATHER's power over his children 110. 53. Is administrator-in-law to such of them as live in his family 110. 54.; 111. 55. Exceptions 111. 54. Obliged to maintain them 112. 56. 57 And to provide for them after his death Otherwise his representative bound to aliment them ib. His power over provisions to his children in marriage-fettlements 562. 39.; 568. 49. FATUOUS persons. See Idiots. FEAR. See Force. FEE opposed to liferent 324. 39. See Feudum. FEES of fervants, in what cases not due 451. Whether arrestable 507.7. Are a privileged debt 622. 43. Prescription of them 527. 17. FERRIES inter regalia 258. 17. FEU, or fubsets, used indefinitely, what 209. FEU-charter ib. FEU-annual 206: 52. FEU-duties 208. 5. Where they must be paid or delivered ib. Are debita fundi 212. 2. Superior's right to feu-duties cannot be loft by the negative prescription 524. 12. FEU-holding, origin of it 208. 5. Resemblance to the emphyteusis of the Roman law 208.6. Irritancy ob non folutum canonem 223. 26. See Irritancy. FEUDAL law. See Law. FEUDUM, etymology and explanation of it Feuda, or feudal rights, to be firiftly interpreted, and why 181. 9. Essentialia, naturalia, et accidentalia feudi 181. 11. Feus real or perfonal 182. 12. Ligia et non ligia ib. Antiqua et nova 183. 12, Divisible or indivisible ib. Redeemable or irredeemable ib. Who may alienate feudal rights 183. 13. Certain feudal rights may not be alienated 184. 14. 15 Who incapable of receiving feudal grants 185. 16. FIAR and Liferenter 324. 39. FIARS, sheriff 447. 4. FICTIO juris 682. 38. FISHES, the property of them how acquired Royal, what ib. FISHING, right of 253. 6. How restrained 155. 10.; 156. 10. See Salmon.

FOETUS animalium 157. 14.

FORCE and fear, grounds of reduction 647.
25. 26. 27.

FOREIGN, decrees of foreign courts 685. 4.

Deeds figned in a foreign country 441. 39.

et feqq.

FOREIGNERS,

T N D E $\mathbf{X}_{:}$

FOREIGNERS, jurisdiction over them 28. 18. Prescription against them 542. 48. et seqq. Wrecks belonging to them 157, 13. Proof of payment in questions with foreigners 488. Whether they may plead ignorantia juris FORESTALLING 714. 38. FORESTS inter regalia 257. 14. Right of forestry ib. FORETHOUGHT felony 715. 40. FORGERY 725. 67. Punishment of forgery ib. Where it may be tried, and how 44. 21.; 725.68. What effential to the crime of forgery 726.69. Direct proof of it ib. 70. Indirect 727. 71. If a capital punishment to be inflicted, the criminal remitted to the court of justiciary 728. 72. See Falfehood. FORISFAMILIATION 110. 53.; 610. 23. FORTALICES, whether inter regalia 259. 17. FORTHCOMING on arrestment 510. 15. Before what court competent 511.15 What incumbent on the purfuer ib. 16. Decree of forthcoming 512. 17. FOUNDERS of churches. See Patron. FOUR forms, letters of 687.9. FOWLING. See Game: FRAUD, granting double conveyances 731.79. FRAUD a ground of reduction 645. 25. 27 FRAUDULENT alienations by bankrupts 648. 28. et segq.
FREEHOLDERS, their jurisdiction 64. 27. FREIGHT 451. 17.
FRUCTUS pendentes 158. 14.; 164. 26. Are partes soli 167. 4. Fructus percepti et consumpti 163. 25.; 164. FRUITS, what pass as pertinents 256. 11. FUGITATION, fentence of, for not compearing in a criminal trial 733.83. FURIOUS persons 139. 48.

GAME, becomes the property of the person who feizes it 155. 10. Laws with regard to it 253. 6. GENERAL letters. See Confirmation, Horning GENERAL fervice. See Service. GESTIO pro herede 586.82. How inferred 587. 83. 84. How excluded 588. 85.; 589. 86. A special fort introduced by statute 588. 85. See Praceptio. GIFT. See Donation, Escheat. GIRTH and fanctuary 715. 40.; 717. 45. GLEBES of ministers 365. 59. Designation of them 21. 2. Whether the minister intitled to both glebes when two parishes are united 366. 61. Glebe once designed cannot be alienated ib. See Manfes.

Vol. II.

GOD, denial of his existence or providence 706. 17. GRACE, act of 696. 28. Days of 439. 33. GRASS of ministers 366. 62. GRATUITOUS deeds, what warrandice implied in them 190.25 Whether effectual against entails 553. 23. Whether against clauses of substitution 565. Whether against clauses of return 566. How far against creditors 649. 32. et seqq. GRATUITOUS cause 189. 22. GROUND-annual 206. 52. GUILD, dean of 63. 24. GYPSIES 724. 64.

H

HABIT and repute man and wife 86. 6. HABITATIO, fervitude of 324. 39.

HAIMESUCKEN 719. 51. HASP and staple. See Entry. HEAD-boroughs 54. 5. HEAD-courts 54. 5.; 65. 29. HEIR, different meanings of it 544. 4. How an heir must obtain infestment 585. 79.; 586. 80. See Entry. What heirs liable univerfally, what not 569. 50. 51. In what order liable 570. 52.; 571. 53. Heir of conquest 548. 14.; 549. 15. 16. Heir of entail 553. 21. Powers of an heir of entail 556. 29. Whether bound to pay a year's rent to the fuperior as a fingular fucceffor 282. 7. Heir-male 552. 21. Heir of provision 553. 21. Heirs-portioners 545. 8.; 547. 13. Heirs-portioners only liable for debts pre rata of their fuccession 569. 50. Unless some of them be infolvent 571.53. Heirs of a marriage 561. 38. - 564. 42. Heirs whatfoever 566. 47. Heirs-female 567.48. Heir by inventory 579. 68. et feqq. Heirs cannot purfue each other on the paffive titles 589. 86. HEIR-apparent. See Apparent. HEIRSHIP moveables, who intitled to them 550. 17 What reckoned heirship-moveables ib.; 551. 18. Intromission with them infers behaviour 587. 83. HERALDS 66. 32. HEREDITAS, estate in hereditate jacente 184. 15.; 574. 58. Adjudications contra hereditatem jacentem 400. 47. et feqq. HEREZELD 255. 10. HERITABLE jurisdictions. See Jurisdiction. HERITABLE rights 167. 4. et feqq. Immoveables ib. Things annexed to these ib. Rights connected with heritable fubjects 168.

9 I

Titles

E X. I N D

Titles of honour and offices 169. 6. Rights bearing a tract of future time ib. Leafes of land ib.

Personal bonds, when heritable 170.9. et segg.

Whether heritable rights may become moveable by an acceffory moveable fecurity, requifition, or demand of payment 174.

By a fale of lands voluntary or judicial 175.

Wadfet fums after confignation how long heritable 299. 23.

General characters diftinguishing heritable and moveable rights 176. 18.

Rights partly heritable, partly moveable 176.

At what period the nature of the right to be determined in point of fuccession 177.

Heritable subjects cannot be devised by testa-

ment 551. 20. HERITORS, who 364. 57. HIGHWAYS, reparation of 59. 14. Inter regalia 258. 17.

HISTORIES, how far probative 667. 7. HOLDINGS, feudal, different kinds of them

HOLOGRAPH deeds 434. 22. Do not prove their own dates ib.

Prescription of them 532. 26. HOMICIDE 715. 40. 41.

Homicidium in rixa 716. 42. HOMOLOGATION 464. 47. Whether deeds intrinfically null may be homologated ib.

What acts infer homologation 464. 47. 48. Effects of homologation 465. 49.

As to third parties ib. Whether homologation may be proved by witnesses 465. 50.

HORNING, letters of, what previously neces-

fary to obtaining of them 235. 54. 'How executed ib. 55.

Publication of them 236. 56. Whence the name ib.

When introduced 687. 9 Horning on decrees of inferior courts ib. On what number of days horning proceeds

235. 55.; 688. 10. General letters of horning 237. 56.

Prohibited with a few exceptions 688. 11. HOSPITALS or ministries 70. 4.

HOUSE-rents, prescription of them 527. 17. HOUSES, ruinous and uninhabited within bo-

rough 528. 18. HUNTING. See Game.

HUSBAND, his power over the wife's perfon 92. 19.

Is curator to her 93. 20.

Effects of his curatory 93. 21.; 94. 22. How it differs from common curatory 94. 23.

What if he be incapable of giving confent as curator 97. 27. See Jus mariti, Wife.

HUSBAND and Wife. See Conjunct rights, Donation.

HYPOTHECK, what 276. 56.

Landlord's hypotheck, foundation of it 276.

On the fruits ib. 58.

Its effects by retention 277. 59.

By recovery ib. 60.

On the cattle 278. 61. 62.

Whether affected by a fubtack 279. 63. Superior's hypotheck on the fruits for his feu-duty ib.

Landlord's on invecta et illata 279. 64.

Titular's hypotheck on the fruits 358. 44. Hypotheck in maritime transactions 425.

On houses within borough for repairs ib. See Retention.

HYPOTHEQUES 168. 5.

JACTUS mercium navis levanda caufa 467.

IDIOTS 139.48.

Whether testamentary curators may be given to them 140. 49.

Brief of idiotry and furiofity 140. 49. 50. Who intitled to be tutor or curator to idiots

141.50. Qualifications of the tutor or curator ib.

Deeds by idiots 142. 51.

Whether the King may give curators to idiots ib.

The powers of curators to idiots 142. 52.

When that office expires ib.

Whether restitution competent to idiots and furious persons ib.

JEWISH law 8. 26.

IGNORANTIA juris 461. 41.; 467. 54. Whether it may be pleaded by foreigners

1MPRISONMENT, wrongous 712. 31. Imprisonment in order to trial for crimes

734.85. IMPRISONMENT of debtors not allowed by

our ancient law 687. 9. Except by magistrates within borough 690.

IMPROBATION. See Confignation, Forgery, Reduction-improbation.

INCEST 721. 56.
INCIDENT diligence 664. 71.; 679. 30. INCLOSURES on marches to be at the com-

mon expence of both proprietors 252. 4. Breaking down or damaging inclosures 715.

39. INDEBITI folutio 466. 54. INDEMNITY, act of 743. 106. INDENTURES 147. 62.

INDICTMENT, criminal 735. 87.; 736. 89.;

INDUCIÉ legales on summonses 639. 6.

In criminal profecutions 735. 87. INDUCTION into a benefice 77. 18.

INF AMIA juris 675. 23. Facti 676. 23.

INFEFTMENT in its vulgar and proper fense 187. 18.

Infeftment in fecurity 305. 35.

For

İ N D X. E

For debts contracted, and to be contracted Extinction of infeftments ib. Infeftment of relief 305. 35.

Gives no right to the creditor, but may be adjudged by him ib. 36.

INHIBITION 370. 2.

On what grounds it may proceed ib. 3.

Execution of the letters 371. 4. Publication ib.

Registration 372. 5.

Effects of inhibition before publication 373.

Inhibition on conditional debts 373. 8.

May be stopped if emulous ib. Against what deeds it strikes ib. 9.; 374. 10.

11.; 375. 12. Only a prohibitory diligence 375. 13.

Deeds contrary to the restraint imposed by the inhibition not ipfo jure null ib. 14.

Is founded folely on the inhibiter's interest 376. 15. 16. Extinction of inhibitions ib. 17

Prescription of inhibitions 538. 38.

Inhibition of tithes 358. 45. INITIALIA testimonii 678. 28.

INJURY 731. 80. Verbal ib.

Real 732. 81.

Before what court injuries may be tried ib. Punishment of them ib.

Extinguished by forgiveness and reconcilia-

tion 744. 108. INNOVATION. See Novation.

INQUEST. Anciently all actions tried by an inquest 637. 3

INQUEST in fervices of heirs 575. 59. Number of the inquest ib.

Qualifications ib. INQUEST or jury in criminal trials 737. 92. Their powers and manner of proceeding

741. 101. .INQUESTS returned by the sheriff 55. 6. See Affize, Brief.

INSTITORS 463. 46.
INSTITUTE and fubflitute 565. 44.
INSTITUTION. See Collation.

INSTRUMENTS, notorial, their folemnities

431. 15.; 432. 16. 17. How far probative 666. 5.; 667. 6. INSUFFICIENCY of goods bought 448. 7. INSURANCE 452. 17.

INTERDICTION 142. 53. Voluntary ib.

Judicial 143. 54.

Whether it has any retrospect ib.

How interdiction may be taken off 143. 55. Publication of interdictions 143. 56.; 371.

Registration 372.5.

Effects of interdiction 144. 57.

Deeds by the interdicted person, with or without the consent of the interdictors 144. 58.

Reduction ex capite interdictionis, to whom competent 145. 59.

Duty and office of interdictors ib.

INTERDICTS 655. 47.

INTEREST 476. 75.; 477. 76. When due by statute 477. 77.

By act of federunt ib. 78.

By the nature of the transaction 478.79.

Due by express agreement 479. 81.

By tacit or prefumed ib. 82.

Whether confignataries are liable in interest

Whether executors are 621. 41.

Currency of interest stopped by compensation 492. 16.

INTERLOCUTORS of the feffion, when final 685. 5.
INTERPRETATION of laws 17. 49. — 20.

INTERRUPTION of prescription 538. 38. It is not every act by the creditor respecting

his right that interrupts prescription ib. What does interrupt ib. 39. Civil interruption 539. 40.

Interruption favourable ib.

In the general case must be made by the creditor himfelf 539. 41.

Interruptions pleadable by those only who have used them 540. 42.

Except the possession in the positive prescription has been inverted ib.

Interruption by citation must be renewed

every feven years 540. 43. Reason of the difference between interruption by citation and by diligence ib.

Solemnities required by statute for interrupting the prescription of real rights 540. 44. Effects of interruption 540. 42.; 541. 45.

Effect of minority in questions of prescription 541. 45.

In interruptions by citation 540. 43.

Whether partial acts interrupt prescription as to the whole right 541. 46. et fegg

Interruption of the prescription of inhibitions 538. 38.

Interruption of the limitation of cautionary

engagements 542. 46.
INTIMATION of affignations 498. 3. Equipollents to intimation 499. 4. 5

Certain conveyances require no intimation 500. 6.; 501. 7.

INTRINSIC. See Qualities.

INTROMISSION by apprifers 386. 19.

Intromission, or possession indefinite, to what title to be ascribed 165. 30.

Necessary intromission 628. 53.

Vitious intromission 626. 49. et segq.

Intromission proveable by witnesses, even to the effect of extinguishing written obligations 675. 21.
INTRUSION, action of 643. 15.

INVECTA et illata. See Hypotheck, Thirlage.

INVENTORY, tutorial and curatorial, how to be made up 124. 21.

Penalties for neglecting to make them up 125. 22. 23.

Heir by inventory 579. 68. et feqq. INVESTITURE, proper and improper 186.

Heir of investiture 567. 47.

JOINT

JOINT trade differs from fociety 456. 29. IRENARCHA 58. 13. IRRITANCY, either legal or conventional 222.25. When purgeable 296. 14. IRRITANCY in feu-holdings ob non folutum canonem 223. 26. 27. The meaning of two years duty running into a third 223. 27. IRRITANCY in wadfets 296. 14. See Pactum. IRRITANT clause in entails 555. 25. JUDGES, on what grounds they may be declined 31. 24. 25. 26. Qualifications of 34. 32. Oaths taken by 34.33. Their appointments and falaries 68. 37. 38. Corruption in judges 711. 30. JUDGES-ordinary 27. 15. JUDICIAL law of Moses 8. 26. JURISDICTION 21.2. King the fountain of 22. 3. Voluntary or contentious ib. 4. Civil or criminal ib. 5. Supreme ib. Inferior and mixed 23. 6. What jurisdiction in dubio presumed ib. 7. Imports a power to explicate it 24. 8. Cumulative 24. 9. Privative 25. 10. Personal or patrimonial 25. 11. Heritable jurisdictions abolished 26. 12.; 57. Heritable criminal jurisdictions 47. 29. Jurisdiction proper and delegated 26. 13.; 27. 14. 15. Jurisdiction, who have a power to delegate it 26. 13. Cumulative jurisdiction in the crown 35. 1.; 38. 9. Whether inter regalia 257. 14. Jurisdiction prorogated 32. 27. See Prorogation. JURISDICTION, civil, founded ratione domicilii 27. 16. Ratione rei sitæ 28. 17. Ratione contractus 29. 20. Criminal jurisdiction how founded 30. 23. Civil jurisdiction of ecclefiastical courts, its rife 80. 25. JURISDICTION, spiritual, of proper church-

courts 79. 24. Civil jurisdiction of these ib.

To whom competent 572. 55. 7US devolutum falling to the church 76. 17.

Whether forfeited by clandestine marriage

Whether it may be excluded or renounced

Paraphernalia do not fall under it 90. 15.

JUS relictæ, whether personal bonds fall un-

Burdens upon it 91. 16. 17.; 92. 18. Whether personal bonds fall under it 171. 10.

JURY. See Affize, Inquest. JUS deliberandi 571. 54.

JUS in re 411. 2.

JUS mariti 89. 13

JUS præventionis 24. 9.

der it 171. 10.

Ad rem ib.

88. TT.

Cannot be hurt by a gratuitous deed on deathbed 607. 16. The effect of renouncing it as to the hufband and children 608. 20. JUS representationis 546. 11. Takes place in fuccession in heritage ib. Not in fuccession to moveables 600. 2. JUS fanguinis cannot be lost by prescription 524. 12. JUS superveniens 280. 3 Foundation of this rule ib. Whether it holds as to confenters ib. 4. Whether it takes place in adjudications 281. JUSTICE 2. 4. JUSTICES of peace, when first appointed in England 58. 13. When in Scotland *ib*. Their criminal jurisdiction before the Union Their civil jurisdiction 59. 13. Their powers as to highways, bridges, and ferries 59. 14. Form of proceeding before them 59. 15. Their quarter-sessions 60. 15. Their power in granting warrants of commitment for fearching, &c. 60. 17. Since the Union have the fame jurisdiction as justices of peace in England 60. 18. How many make a quorum 61. 18. Jurisdiction in special cases conferred on them by British statutes 61. 19. Magistrates of some boroughs constituted justices of peace by their charter 62.21. Eldest magistrate of royal boroughs always in the commission of the peace ib. JUSTICIAR 45. 24.; 46. 25. JUSTICIARY, court of, in what respects supreme 45. 24. Its origin and conftitution 46. 26. Its jurisdiction and powers 47. 27. 28. See Circuit. Heritable jurisdictions of justiciary 47. 29.

K

Now abolished, and grants of them prohibi-

ted 48. 29.

KINDLY tenants, or rentallers 267. 37. 38. KING. Of Scotland, whether he had the fole right of legislation 13. 38. His jurisdiction 35. 1.; 38. 9. King, his supremacy over the church 71.6. He is univerfal patron of church-benefices, where no right of patronage appears in a fubject 72. 10. King's right of applying vacant stipends 74.14. His right in all lands without feifin 201. 44. How far the King bound in warrandice 192. Confidered as the eldest superior 221. 22. His power to pardon criminals 742. 105. et His annuity out of tithes 355. 39. His ease in the valuation of tithes 350. 29. Succeeds as ultimus heres 630. 2. How that right made effectual ib. 3. King,

King, or his donatary, not univerfally liable for the debts of the deceafed 631. 4.

Whether the right of the King may be hurt by a deed on deathbed ib.

King fucceeds to bastards 632. 5.

Whether it is as ultimus heres ib. 6.

See Vacant.

KIRK-lands. See Church-lands.

KNAVESHIP 314. 19.

Ť.

LABOURERS, or Workmen 146.61. LANDHOLDERS, their jurifdiction 65. 29. LAW, different acceptations of it 1.1.; 2.2. The internal obligation of law 2.5. The fanction of law ib.; 3. 5. 6. Law must be promulgated 7.21. Declaratory laws ib. 23. Permissive laws 8. 24. Interpretation of laws 17. 49. et seqq. Prohibitory laws 20. 59. 60. Law, Canon 9. 28. Its authority in Scotland 14. 42. LAW, CIVIL, MUNICIPAL, or POSITIVE 6. 18. Must be promulgated 7.21. Binds all subjects, whether by birth or residence ib. 22. Regulates only future cases ib. 23. Merely civil or mixed 8. 25. Divine or human ib. 26. Public or private 9. 29. Written or unwritten 9. 30.; 15. 43. Unwritten, foundation of its authority 15. 43. Its force *ib*. 45. LAW, COMMON 9. 28. Common laws of the realm ib. LAW, FEUDAL, original and progress of it 177. 2. et seqq. Confuetudines feudorum, by whom compiled 179, 5. Of what authority ib. 6. When the feudal law introduced into Scotland ib. LAW, JUDICIAL, OF Moses 8. 26. LAW OF NATIONS, in its proper fense 5. 14. In its usual acceptation ib. 15. LAW OF NATURE 3. 7. Its objects ib. 8. Its extent 3.9.; 4.11. How inforced 4. 10. Primary law of nature ib. 12. Secondary or hypothetical ib. 12. 13. Part of it not inforced by positive law 5. 16. How far it may be altered by positive law 6. 20. LAW, ROMAN 8. 27. Its authority in Scotland 14. 41. LAW OF SCOTLAND 9. 29. Written or statutory ib. When statutes first enacted in Scotland 10. Regiam Majestatem, how and when written Its authority 12. 36. Acts of parliament ib. 37. et seqq.

Vol. II.

Acts of sederunt 13. 40. Regulations 1695 and 1696 14. 40. Unwritten or customary law of Scotland 15. 43. et seqq. Either univerfal or local 16. 46. Whether constituted by a train of decisions ib. 47. See Act, King, Parliament. Law of Deathbed. See Deathbed. LAWBORROWS, letters of 643. 16. Contravention of ib. LEASES or tacks of land, heritable as to fuccession 169. 6. Fall to the heir of line, not of conquest 550. 16. How leases originally granted 260. 20. Who may grant them 261.21. Minute of tack equal to a formal tack ib. What right they convey to the tenants 261. Certain leafes of land real 261. 23.; 262. 24. 25. In what respects these are so 263. 29. Whether leafes of other fubjects are real a Lessees may remove possessors 263. 28. Are intitled to the benefit of a possessory judgement ib. Verbal leafe 264.30. A leafe granted to perpetuity, or with an indefinite ish, whether effectual against the granter and his heirs ib. How far leases are stricti juris 264. 31. Whether they may be affigned 264. 31.; 265. 32. Whether affignable leafes may be affigned by the heir without fervice 584.77 Whether they may be adjudged 265. 32. Whether a leffee may grant fubtacks 265. Form and effects of a fubtack ib. 34. Certain obligations on both parties in leafes of land 268. 39. 40. 41.; 269. 42. Of houses 269. 43. How vacated during their currency 270. 44. Tack by a reverfer to endure after redemption 295. 13. See Relocation, Removing, Rental, Warning. LEASING-making 711. 29. LEGACY 602. 6. Verbal 603. 7. Universal 602. 6.; 604. 11. General, or legatum quantitatis 605. 11. 12. Legatum generis 606. 13. Legatum rei alienæ 604. 10. Legacy of an heritable bond ib. Legacies, how far proveable by witneffes 674. 20. LEGAL reversion 291. 2.; 382. 10. LEGATEE universal 602. 6. Residuary ib. What if the legatee die before the testator 603.9. Legatees cannot purfue on the passive titles 589. 86.; 628. 54.

LEGISLATURE 6. 19.

Of Scotland 13. 38.

Cannot

LEGITIM 606. 15.

E X. Ι N D

Cannot be hurt by gratuitous deeds on deathbed 607. 16.

To whom, and when due ib. 17.

Renunciation of it, how inferred 610. 23.

Effect of renouncing it ib.

LEGITIMACY prefumed in a fervice 578. 66. Prefumed from the marriage of the parents

LEGITIMÁTION by subsequent marriage 109.

52. Letters of ib.

Effect of them 633. 7.

LETTERS of four forms 687. 9.

Of liberation 690. 15.

Of prefentation 631. 3.

Of regress 297. 18.

Of relaxation 241.65. Of flains 743. 105.

See Caption, Horning, Legitimation.

LIBEL of a fummons 638. 5.

Can different grounds of action be thrown into one libel 661. 65.

Libel in indictments and criminal letters 736. 89.

Must be special ib.

LIBERATION, letters of, whether necessary to liberate debtors from prison 690. 15.

LICENCE to pursue 619. 39.

LIEGE pouftie 594. 95. LIEN. See Burdens.

LIFERENT 324. 39. 40.

Simple ib. 41.

By refervation 325. 42. Life-annuities ib. 43.

Liferenters intitled to the full use of the fubject liferented 331. 56.

Must use salva rei Jubstantia ib. 57. 58. And find caution for that purpose 332. 59. What if houses liferented need repair 332.

Whether liferenters liable in public burdens

ib. 61. Whether burdened with an alimony to the

heir 333. 62. 63.

Extinction of liferents 334. 64.; 335. 68. Right of liferent not transmissible 325. 41.

Terms of liferent, and rules for determining what profits of the liferented subject belong to the fiar, what to the reprefentatives of the liferenter 334. 64. 65.; 335. 66. 67.

Wife's conjunct right resolves into a liferent 325. 42.; 560. 36. See Efcheat.

LIFERENT by law. See Courtefy, Terće. LINT, freeping it in lochs, burns, or moss-

holes 715.39.
LITIGIOUS, a fubject rendered litigious by the publication of an inhibition 373. 7.

By denunciation in apprifings 384. 16. By citation in a fummons of adjudication 398. 41.

By begun diligence against bankrupts 651.

LITISCONTESTATION, how formed 663. 69.

Effects of it 664. 70.

LOAN, or mutuum, contract of 418.18.19.

Loan of money must be constituted by wri-

ting 674. 20. LOCALITY, decreet of 359. 47.

LOCATION, contract of 450. 14.

Obligations on the leffor ib. 15.

On the lessee 451. 16. LOCUS pænitentiæ 427. 3.

LOOSING of arrestment 509. 12.

In what cases caution admitted 510. 12. Effects of loofing ib. 13.

LUCRATIVE fucceffor. See Praceptio hereditatis

LUNATICS 139. 48.

LYON king at arms, his office and jurifdiction 66. 32. 33.

M

MACERS 66. 33. MAGISTRATES obliged to concur in execu-

ting captions 689. 13. See Borough-royal, Prifoner.

MAILS and duties, action of 656. 49.

Prescription of them 529. 20.

MALA fides. See Poffession.

MANDATES 457. 31. Prefumed gratuitous 458. 32.

Express or tacit ib. 33.

Whether in a mandate to more than one,

all must concur 458. 34.

Mandataries liable finguli in folidum 450.

What if the mandatary act in his own name ib.

Foreign merchants purchasing goods on commission proper mandataries 459. 34.

Mandataries must not exceed the rules pre-

fcribed to them ib. 35.

Are trustees ib.

Liable in exact diligence 459. 36. With certain exceptions 460. 37.

Obligations on the mandant ib. 38.

Mandates general and special ib. 39.

How mandates expire 461. 40.

What if the mandatary proceed after the mandant's death ib. 41.

Mandate in crimes 704. 11.

MANSES of ministers 363.55.

At whose charge to be built and repaired ib. 56. 57.

Incumbents bound to keep them in tenantable repair after they are declared free 364. 58.

The form of this ib.

Relief in the defignation of manfes and glebes 365. 60.

Defignation of manses by presbyteries 21.

MARCH-fences 53. 3. Marches to be straighted 252. 4. How, and by whose authority ib.; 53. 3.

MARISCHAL 51. 37.

MARRIAGE 84. 1.

Requires confent 84. 2.

De præsenti ib. 3.

Whether it must be declared before a clergyman 85.5.

Whether

Whether the confent of parents necessary

Marriage, on what grounds null 84. 2.; 86. 7. Within what degrees forbidden 87. 9.

Prefumed marriage 85. 4.; 86. 6.

Regular marriage 88. 10.

Clandestine marriage ib. 11.

How marriage may be diffolved 102. 37. Its diffolution by death within year and day

103. 38. 39.; 104. 40.

After year and day 104. 41;

By divorce 105. 43.

See Contract.

MARRIAGE, cafualty of 219. 18.

When introduced into Scotland ib. When due to the fuperior 219. 19.

Single avail 220. 20.

Double avail ib. 21.

Due to the eldest superior only 221. 22. Only due in ward holdings, unless there be a clause cum maritagio 221. 23.

Abolished 221. 24.

MARTIAL courts 51.36.

MASTER of a thip, his contracts binding on his exercitor 462. 43. 44.; 463. 45. MEDITATIO fuga. See Arrestment.

MENSAL churches 341. 11. MESSENGERS 66. 32. 33.

A meffenger's judicative authority in poinding 517. 26.

MILL, whether a separate tenement 252. 5. Whether one may be built on lands aftricted to another mill ib.

Mill-fervices 314. 19.

MINERALS, what kinds inter regalia 258.

MINISTERS, form of their admission during Epifcopacy 77. 18. 19.

Since the Revolution 77. 20.

Whether they may be Lords of fession 40.

MINISTRIES or hospitals 70. 4.

MINORS either pupils or puberes 114. 1. A minor pubes may be without curators 118. II.

And may dispose of his own person 120.

Effects of deeds by minors with or without curators 132. 33.

Restitution of minors 132. 34. Within what time must it be sued for 133.

What the minor must prove in an action for restitution 133. 36.; 134. 37.

Against what deeds may he be restored 134. 36. 38.

Whether restitution may be barred by an oath to the contrary 135. 39.

By ratification or homologation ib.

Whether a minor may be restored against minors and fingular fuccesfors 135. 40.

Restitution ought to be mutual and complete 135.41.

This privilege fometimes descends to the minor's representative 136. 42.

Minor non tenetur placitare de hereditate paterna 137. 43.

What meant by heritage in this privilege 137.44.

The privilege may be pleaded by a minor, though the eviction of his heritage should not be the immediate object of the fuit

137. 45. It is in feveral cases excluded 138. 46.

Perfons of minors exempted from diligence

695. 25. MINORITY. See Interruption.

MISPRISION of treason 710. 28.

MISSIVE letters in re-mercatoria do not require the folemnities effential to common deeds 435. 24.

MODIFICA HON, decreet of 359. 47.

MOLESTATION, action of 655. 48.

MOR FANCESTRY. See Brief.

MORTIFICATIONS, what, and why fo na-

med 211. 10. Whether any difference between lands given

to prelates for behoof of the church, or in puram eleemofynam ib.

What fervices due in church-fees ib.

Mortifications to Popish uses annexed to the crown on the Reformation 211.11.

Whether lands may be mortified without the fuperior's confent 212. 11.

MOVEABLE rights 169. 7. et feqq.

Arrears of rent, interest, and feu-duty 169. 7.

Arrears due upon cafualties of fuperiority, whether moveable ib.

Arrears of interest upon the accumulate fum in an adjudication, whether moveable 399.45.

Sums employed in trade, shares in a public company or private copartnery 170.

Personal bonds, when moveable 170. 9. et seqq.

Moveable rights may become heritable by destination 173. 14.

By a fupervening heritable fecurity ib.; 174.

Whether heritable rights may become moveable 174. 16.; 175. 17. See Heritable, Possession.

MULTIPLE-poinding, action of 693. 23. What remedy competent to creditors who were neither called nor had appeared 694.

MULTURES 314. 20.

Outfucken and infucken ib.

Rates of these ib.

Dry multures 318. 28.

Disposition of a mill, with the multures of the difponer's lands 315. 21. With multures ufed and wont ib.

Disposition of a mill of a barony, with multures used and wont 315. 22.

Disposition of lands cum molendinis et multuris ib.

Prescription of multures 529. 20. Action of abstracted multures 319. 32.

MUNERA publica 124. 20. MUNICIPAL law. See Law.

MURDER 715. 40.

When dole prefumed in this crime 716. 42. Whether murder, when another person killed than the one aimed at 716.43.

What if the person wounded recover ib. 44. Wounds,

I N'DE X.

Wounds, what understood to be mortal 716.
44.
Self-murder 717. 46.
Prefumptive or statutory murder 718. 48.
See Assassination, Homicide.
MUTILATION 719. 50.
MUTUUM, or loan 418. 18. 19.

N

NATIONS, law of. See Law. NATIVI 146. 60. NATURAL children. See Bastards. NATURALIZATION 635. 10. Whether the power to naturalize be among the royal prerogatives ib.

NATURE, law of. See law.

NAUTE, caupones, ftabularii, edict of 421. 28.; 422.29. NECROMANCY. See Witchcraft. NEGOTIORUM gestio 466. 52. 53. NOBILE officium. See Seffion. NONENTRY, ground of this cafualty 224. A declarator necessary ib. When due *ib*. 30. Nonentry-duties before citation on a general declarator 227. 36. et seqq. How ascertained, where the lands, or only a parcel of them, valued in cumulo in the retour 228. 37. Where no retour appears ib. Not a penalty 229. 40. Title in a general declarator 229. 41. Conclusion in it ib. 42. Special declarator ib.

Whether nonentry-duties in every case debita fundi 230. 42. How this casualty excluded 230. 43. et seqq. When presumed to have been passed from by the superior 232. 46. OTARIES. See Subscription, Writing.

by the fuperior 232. 46.
NOTARIES. See Subscription, Writing.
NOTORIAL infruments. See Infruments.
NOVATION, or Innovation 494. 22.
NOVODAMUS, clause of 189. 23.
NUNCUPATIVE testaments 603. 7.

Ò

OATH, promiffory 469. 60.

OATH of verity, or upon reference 667. 8.

Effect of it ib.

Whether it may be put for fupplying a written inftrument 668. 9.

Whether in trials for crimes or trespasses ib.

It affects the litigants only ib. 10.

Qualified oath 669. 11.; 670. 12. 13.

What if a party swear non memini 671. 14.

A party not compearing to make oath is held pro confesso 672. 17.

OATH in supplement 671. 14.

OATH of calumny 672. 16.

OATH in litem 673. 18.

OBLIGATIONS 411. 2.

Natural or obediential 412. 4.; 413. 9. et feqq.

Civil and mixed 412. 5. Pure, to a certain day, or conditional 412. 6.; 413.7 Sub modo ib. 8. By word 426. 1. et feqq. By writing 428. 6. et feqq. What understood to be obligations of importance 429. ro. Obligations accessory 469. 60. et feqq. Subject-matter of obligations 480. 83. 84. What if the obligant fail in performance 481.86. Doubtful clauses in obligations to be interpreted against the granter 482. 87.
Of yearly prestations not lost by prescription 524. 12.; 525. 13. Extinction of obligations 486. 1. et feqq. See Conditions. OCCUPANCY 155.9. What things may be acquired in this way by the law of Scotland ib. 9. 10.; 156. 11. 12.; 157. 13. OFFICIALS. See Commissaries. ORDER of redemption 298. 19. Effect of confignation in it ib.; 299. 23. Need not be registered 300. 24. See redemption. OVERSMAN in a fubmission 697. 29. OUTLAWRY in trials for treason 733. 83. OXEN, flaying or houghing them in time of harvest 715. 39.

P

OYER and terminer, court of 733. 84.

PACTUM nudum 417. 17. Liberatorium 427. 3.

Pactum legis commissoria, in wadsets 296. In moveable pledges 424. 33. In fales 449. 11. Pactum de retrovendendo 450. 12. Pactum de hereditate viventis 480. 84. Pactum donationis, what fight it confers 483. PAPA 69. 2. PAPISTS cannot be tutors or curators 119. 12. Cannot alienate gratuitously to the prejudice of their heirs 183. 13. Incapable of acquiring a feudal right by voluntary disposition 185. 16. Apprifings and adjudications by them never expire 395. 35. Incapable of fuccession 634. 9. PARAPHERNALIA 90. 15. Whether they may be alienated by the wife PARDON 742. 105. Effect of it in the case of slaughter, robbery, and oppression 743. 105. In attainder or conviction for treason 744. PARENTS and children. See Children, Curfing, Father. PARISHES, disjunction of 78. 21. Annexation of ib.

PARTIAMENT

PARLIAMENT of Scotland, its jurifdiction 35. 2. Who had a right to fit in it ib. 3.; 36. 4. Of Great Britain 37. 8. Scottish representation in it 37. 7. Privilege of parliament 37. 8.; 695. 25. See Act. PARRICIDE 717. 47. PARSON. See Prefbyter. PARSONAGE, benefices, parfonages or vicarages 341. 12.; 342. 13. PASSIVE titles 586.82. Gestio pro herede 587. 83. et segq. Præceptio hereditatis 589. 87. et feqq. Proponing defences against the predeceffor's debts 592. 93. Not renouncing on a charge ib. By poffeffing the ancestor's estate under a title in the person of one to whom the heir may likewise succeed 593. 94. Entry to a more remote predecessor ib. Vitious intromission 626. 49. et seqq. Paffive titles introduced only for the fecurity of creditors 589. 86.; 628. 54. Certain paffive titles are limited to particular debts 592. 93.

PASTURAGE, common 312. 14. 15. 16.

PATRIARCHS in the Christian church, who 69.2. PATRON, who 72. 9. 10. Of collegiate churches, altarages, and chaplainries 73. 12. Rights of patrons 72. 10.; 73. 11.

See King, Pope, Prefentation, Vacant.

PATRONAGE, whether to be prefumed 75. Whether a right to it may be conveyed separately from lands 75. 15.; 260. 19. PAYMENT, whether it may be made in parts 486. I. Indefinite payment ib. 2 Bona fide payment 487.3 Payment of rent before the term ib. 4. Prefumed payment ib. 5. Payment by a third person 488. 6. Proof of payment ib. 7. 8.; 674. 21.; 675. PEACE. See Justices. PEERS, House of, its jurisdiction 37. 8. Persons of Peers secured from diligence 695.2 Trial of Peers 37. 8.; 733. 84. Of Scotland intitled to the privilege of British Peers 37. 7.
PERAMBULATION, action upon a brief of 655. 48. PERICULUM rei venditæ 448. 7. PERJURY 728. 74. Punishment of it 729. 75. PERMUTATION 450. 13. PERSONAL execution. See Diligence. PERSONAL right of lands 290. 26. PERSONAL fervices, whether due if not demanded within the year 212. 2. Now abolished 213. 2. PERTINENT of lands, what included in it ^{251.} 3. 4. Vol. II.

What fruits 256. 11. Whether a right in the area of the parishchurch ib. Whether the right of a burial-place ib. Steel-bow goods 256. 12. PETITORY. See Action. PICKERY 722. 59. PIRACY 725. 65. PLEDGE 424. 33. The fubject impignorated cannot be fold without a fentence 424. 33.

What the creditor should do to operate his payment ib. PLOUGH-goods cannot be poinded in time of labouring the ground 515. 22. Plough-graith, destroying it in time of tillage 715.39. POINDING, perfonal 514.20. Form of it 515. 23.; 516. 24. 25. By whom used 514. 20. Warrant of ib. When a previous charge necessary 514. What goods may be poinded 514. 21. 22. Anciently all goods on the ground might have been poinded 304. 33. Meffenger's power in poinding 517. 26. Not completed, effects of it 517. 27. Poinding of the ground, to whom competent 641.11. Is not a title of possession ib. Who must be called as defenders ib. 12. Its real effects, and difference from personal poinding 642. 13. Poinding of cattle for a trefpass 518. 28. POISON, importers of it 718. 48. POOR, provision for their maintenance 148. 63. POPE, his jurisdiction abolished 71. 6. Formerly universal patron of church-benefices 72. 10. PORT, right of a free port inter regalia 259. PORTEOUS roll 735. 86. POSSESSIO decennalis et triennalis 535. 33. Whether it is prescription ib. In what rights it takes place 535. 34. POSSESSION 161. 20. Difference between possessors and custodiers ib. Possession animo 161. 21. Natural and civil 162. 22. Possession got vi aut clam ib. 23. Precario ib. Effects of legal possession in moveables 162. 24.; 522. 7. In immoveable fubjects 163. 24. Possession bona et mala fide 163. 25.; 164. 27. Effects of bona fide possession 163. 25.; 164. 26. When bona fides understood to cease 165. 28. 29. To what title is possession to be ascribed 165.

To what title is possession to be ascribed 165.

Possession by churchmen for thirty years gives a prescriptive right 536. 34.

POSSESSORY judgement 656. 50.

9 L. Nor

Ι $N \cdot D$ E X.

Not competent to a creditor in a debitum fundi 6.11. 11.

Whether churchmen intitled to it 535. 34. See Actions.

PRÆCEPTIO hereditatis 589.87.

Compared with geflio pro herede ib.; 591;

Foundation of it 589. 88.

How interred ib.; 590.89. PRÆPOSITA. See Wife.

PR.EPOSITUS, or provoft, an ecclefiaftical person 69. 3.

See Patron.

PRÆVENTO termino, action of 693. 21. PREBENDARIES or canons 69. 3. PRECARIUM 420. 25.

PRECEPT of Clare constat 580. 71.

PRECEPT of feifin 195. 33.

Must now be ingrossed in the charter ib. PRECEPT of warning 271. 45.

PRECEPTS against superiors in apprisings 389.

By heirs ferved 585. 79. See Procuratories

PRECOGNITION in order to trial for crimes 35.86.

PREFERENCE. See Competition, Ranking. PRELATES 70. 4.

Intitled to heirship-moveables 550. 17.

PRESBYTER, rector, parson, who 72.9. By whom elected or appointed ib.

Form of his admission during Episcopacy 77.

Since the Revolution 77. 20. PRESBY FERIES. See Glebes, Manses. PRESCRIPTION, why introduced 518. 1.

PRESCRIPTION, PosiTive 519. 2. What rights acquired by it ib. 3.

What possession necessary in it 519. 3.; 521.

Title of it in heirs 520. 4. And fingular fucceffors ib.

In burgage-tenements 521. 5. Of church-lands and rents 535.33.34.

In regalia 522.6.

In falmon-fishings 257. 15.

In fervitudes 307. 3; 308. 4; 522. 6. In thirlage 317. 28; 318. 29. In thirlage to mills of church-lands 318. 28. In thirlage to mills belonging to the King

317. 28. In real rights of annual prestations 522. 6.

What if one has two titles, the one limited, and the other not ib.

Positive prescription unnecessary in moveable rights or subjects 522. 7.

Certain rights cannot be acquired by it 525.

Whether bona fides necessary 526. 15. Effects of it 521. 4.; 522. 6.

PRESCRIPTION, NEGATIVE 522.8.

What rights fall under it 523. 9. et fegg.
Whether objections from intrinfic nullities

Whether res meræ facultatis ib. 10.

Whether exceptions or defences 524. 11. Whether an action of improbation on the head of falsehood 524. 12.

Whether jura sanguinis ib.

Whether a fuperior's right to feu-duties 524.

Whether rights to tithes 525. 13.

Whether obligations of annual prestations ib.

Whether bona fides necessary 526. 15.
PRESCRIPTION, TRIENNIAL, of actions of fpulzie, ejection, and intrusion 526. 16.

Of actions for fervants fees, house-rents, and merchants accounts 527. 17.; 528.

Of actions of removing 528. 18.

Of the property of ruinous houses within borough ib.

PRESCRIPTION, QUINQUENNIAL, of arrears of rent 529. 20.

Of multures ib.

Of ministers stipends ib.
Of bargains respecting moveables 530. 20.

Of arrestments ib.

PRESCRIPTION, SEPTENNIAL, of citations used for interruption 540. 43.

Septennial limitation of cautionary engagements 530. 22. et seqq.

PRESCRIPTION, DECENNIAL, of tutorial and

curatorial accounts 532. 25.

Of actions upon debts subject to some of the fhorter prescriptions 532. 27.; 533. 28.

PRESCRIPTION, VICENNIAL, of retours 528.

Of holograph writings 532.26.

Whether this extends to obligations without witnesses for fums under L. 100 Scots ib.

Prescription of bills 533. 29.

PRESCRIPTION runs de momento in momentum

534. 30. Whether it runs against the King ib. 31.

Whether against hospitals ib. 32. Whether against corporate bodies 535. 32. Whether against the church 534. 32. et

Whether the long prescription runs against

minors 536. 35. Whether the shorter prescriptions 527. 16.

From what time prescription begins to run 536. 36.

Whether it runs contra non valentes agere 537 - 37 -

Prescription of crimes 744. 109.

See Apprifings, Beneficium inventarii, Cautionary, Interruption, Jus deliberandi, Mi-

PRESENTATION to church-benefices, right of in patrons, its original 72. 9.

When first acknowledged in Scotland ib. Successive changes in the law with regard to

it 72. 10.; 73. 11. Prefentation alternis vicibus 73. 11.

How to be made effectual 75. 16.

Cannot be hurt by the fentence of a churchcourt 76. 16.

Within what time must presentations be tendered ib. 17. See Jus devolutum.

PRESENTATION, letters of 631. 3.

Bond of 474. 70. PRESUMPTION 680. 34. Juris et de jure ib. 35. Juris 681. 36.

Hominis vel judicis ib. 37.

Prefumptions

I N D E X.

Prefumptions fustained as evidence in crimes PREVENTION in jurifdiction 24.9. PRICE of lands bears interest 478. 79. PRIMATE of Scotland 71. 7. Of all Scotland ib. PRIMOGENITURE 544. 6. PRINCIPALITY of Scotland 58. 12. PRINCIPALITY-lands, whether included under the statute abolishing ward-holdings 222. 24. How the vaffals in them to be entered ib. PRIORS and priories 70. 4 PRISONER for debt must be closely confined 689. 14. In what cases are the magistrates and jailors liable for the prisoner's debt ib. Persons assisting in the escape of a prisoner liable with the magistrates and jailor 690. And liable to them in relief ib. The person of one already in prison may be arrested by another creditor 690. 15. Form of liberating a prisoner upon payment See Act of grace, Ceffio bonorum, Personal diligence. PRISONERS committed in order to trial for crimes may, if the crimes be not capital, apply to be relieved upon bail 734.85. Or infift to have the trial brought on ib. See Imprisonment. PRIVATE acts of parliament. See Acts. PRIVILEGED debts 622. 43. Deeds in respect of the legal folemnities 434. Summonses 639. 6. PRIVILEGES, privæ leges 7. 22. PRIVY council of Scotland 38. 9. PROBATION prout de jure 665. 1. By fingle combat ib. 2. Order of leading proof ib. 3. Proof by writing 666. 4. 5.; 667. 6. 7. By oath 667. 8. et seqq. By witnesses 673. 19. et seqq. Proof to lie in retentis 679. 31. By notoriety 680. 33. By confession ib. By circumstances and prefumptions ib. 34. et segg. Proof taken before arbiters who have not decided, whether received as evidence 700. PROBATION in crimes 738. 94. et fegg. Whether crimes may be proved by the oath of the defender 738. 94.; 739. 95. Proof by writing 738.95. Whether the pannel obliged to exhibit writings against himself ib. Whether extrajudicial confession admitted as evidence 739.96. Whether confession by torture ib. Proof by witnesses 739. 97. By circumstances 740. 98. By prefumptions ib. 99. See Witnesses. PROCURATORIES of refignation, and precepts of feifin, do not expire by the death of the granter or grantee 462. 42.

PRODIGALS, or profuse persons 142, 53. et PROMISE 482. 88. PROMISSORY notes 435. 24. PROOF. See Probation. PROPERTY 151. 1. Common property 152. 1. Legal restraints on property ib. 2. Whether it may be in pendenti ib. 4. What things incapable of being appropriated 153. 5. 6.; 154. 7. 8. How acquired 155. 9. - 160. 17. How transferred 160. 18. et fegg PROPINQUITY, how reckoned 86.8. Propinquity in a tutor of law 115. 4. To a defunct must be set forth in the fervice 578. 66. The remotest degree excludes the crown ib. PROPONED and repelled 684. 3. PROROGATION of jurifdiction 32. 27. Sometimes prefumed ib. Whether inferred from a consent to register in the books of a court 33. 28.; 83. 30. Prorogatio de tempore in tempus 33. 29. Prorogatio de loco in locum ib. Prorogatio de causa in causam 33. 30. Prorogation in special cases excluded by statute 34. 31. Not admitted in the King's causes 32. 27. PROSECUTIONS, penalty of vexatious criminal profecutions 735. 87. Profecutor must find security at raising the criminal letters ib. PROTECTION against caption 694. 24. PROTESTING of bills 430. 33.
PROTOCOLS, defign of them 198. 39.
Transumpt of a feisin from a protocol equal to the original 201.43. Must be lodged in the register of the session PROTUTORS and procurators 128. 28. Are liable as tutors, without having their active powers ib. But may fue the minor for reimbursement PROVING of the tenor. See Tenor. PROVISIONS to children or iffue of a marriage give no fpecial right to any one child 568. 49. When prefumed a donation 485. 93. Effectual without delivery 444. 44. To children already existing considered as gratuitous in a question with creditors 649. 34. Granting provisions to children by an heir of entail imports contravention 558. 30. Provisions taken sometimes to heirs, sometimes to bairns 568. 48. Provision of conquest 564. 43. Provisions in marriage-contracts, whether onerous in questions with creditors 649. In postnuptial contracts ib. See Contract. PROVOST, whether the jurisdiction of royal boroughs may be exercised by the provost 62. 22. See Prapositus. PUBLIC

X. Ι D E N

PUBLIC right may be perfected by confirmation 284. 13.

How confirmation formerly granted, and now 285. 13.

The first confirmed preferable ib. 14.

What the first confirmation on charters from the crown ib.

Whether confirmation has effect from the date of the charter confirmed ib. 15

Seifin taken indefinitely upon a disposition a me and de me, whether prefumed public or base 286. 16.

May be perfected by refignation ib. 17.

See Base right, Resignation. PUNISHMENT, capital 705. 15.

Arbitrary ib.

When the life of the offender is put in the King's will ib.

PUPILS 114. 1.

Cannot marry 84. 2.

Cannot execute any deed 120. 14.

Their perfons fecured against imprisonment on civil debts 139. 47.

See Minor, Tutor. PURPRESTURE, or Purprision 234. 52. PURSUIVANTS 66. 32.

QUADRIENNIUM utile 133. 35. QUALITIES of oaths intrinfic and extrinfic 669. 11.; 670. 12. 13. QUALITIES of rights. See Burdens. QUASI contracts 466. 51. et segq. QUORUM of the fession 41. 16. Of justices of peace 61.18. Of tutors 120. 15. QUOT of testaments, the original and rate of

RANKING of creditors, how carried on 407.

Must be fixed before the fale ib.

it 613. 28.

Now prohibited ib.

RAPE 721. 55. RATIFICATION by wives, why introduced

100. 33.

Its form 101. 33.

Its effects 101. 34. The subject of it 101. 35.

Whether necessary to make the deed effectual 102. 36.

REAL. See Burden, Debita fundi.

REBELLION upon denunciation 236. 56. et

Origin of this fevere fanction 238. 59. RECLAIMING bills to the inner house 685.

RECOGNITION, ancient meaning of this word 216, 10.

Cafualty of ib.

Not properly a penalty for a crime, but a feudal right referved to the superior 217. How inferred 217. 12. 13.

Alienation must have been beyond the half of the fee 218. 14.

And to strangers 219. 16.

Alienation by certain vaffals did not infer recognition 218. 15.

The cafualty might have been passed from expressly or tacitly 219. 17.

RECOMPENCE an obediential obligation 414.11.

RECOURSE in bills 438. 32.

In case of eviction 193. 30.; 194. 31. 32.

RECTOR. See Presbyter.

REDDENDO, clause of 190. 24.

REDEEMABLE rights 291. 1. et feqq.

REDEMPTION of wadsets 298. 19. et seqq.

Declarator of redemption 298. 20.; 299. 21. 22.

Redemption of apprifings 395. 37.; 396.

REDHIBITORIA actio 449. 10.

REDUCTION, action of fimple reduction 647. 24.

Grounds of reduction ib. 25.

REDUCTION on the first branch of the act 1621, c. 18. to whom competent 648. 28. 29. 30.

Who conjunct or confident persons 649.

What gratuitous deeds ib. 32. 33. 34.

Proof that the deed is gratuitous 650. 35. Whether reduction competent against a bona

fide purchaser of the deed subject to challenge ib. 36.

REDUCTION on the fecond branch of the act, what rights fall under it 651. 37.

What diligence must have been done by the

purfuer 651. 38. 39. 40. Whether deeds falling under the act null, or only reducible 652. 40.

REDUCTION on the act 1696, c. 5. 652. 41. Who bankrupt in terms of this statute ib.

653.42. What deeds fall under it 652. 41.; 653. 42.

43.

REDUCTION of deeds by bankrupts at com-

mon law 654. 44. REDUCTION of decrees 686. 8. See Circumvention, Fear, Force.

REDUCTION-improbation 644. 19.

To whom competent 645. 20.

Terms affigned for production ib. 21.

Against what writings certification can pass

646. 21. 22. What if the defender produce a preferable

title 646. 23. REGALIA 154. 6.

Regalia majora et minora 257. 13. et seqq.

REGALITIES, lords of regality 55. 7 What lands could be subjected to their jurifdiction ib.

They could appoint heritable deputies ib.

Had a chancery proper to their jurifdiction

The extent of their jurisdiction 56.8.

Had a power of repledging ib. Church-regalities 56.9.

Regalities now abolished 57. 11.

REGIAM

REGIAM Majestatem, its original 10. 32.; 11. 33.34.35.

Its authority, and that of the other treatifes joint with it 12. 36.

REGISTRATION of abbreviates 398. 43.

Of bills 440. 35.

Of entails 555. 26. et seqq.

Of horning in order to denunciation 236.56.

Of inhibitions and interdictions 372.6.

Of renunciations of wadfets and grants of redemption 294. 10.
Of refignations ad remanentiam 289. 23.

Of reversions, and the affignations and dif-

charges of them 294. 10. Of letters of relaxation 241. 65.

Of feifins 198. 40.

Where these must be registered ib.

The consequence of omitting to registrate them ib.

Whether burgage-feifins must be recorded 199.41.

Order of recording feifins, and whether that rules their preference 200. 42.

Whether an extract from the register of seifins be evidence 201. 43.

Registration of summonses, and instruments for interrupting the prescription of real rights 541. 44.
Orders of redemption need not be registered

300. 24.

Nor renunciations or discharges of rights of

annualrent 305. 34.
Nor renunciations of infeftments in fecurity and of relief 306. 36.

Nor renunciations or discharges of apprifings 396. 38.

Nor refignations in favorem 289. 23.

REGISTRATION of obligations in order to diligence 235. 54.
REGISTRATION, action of 660. 63.

Whether a confent to register in the books of a court imports a prorogation of the jurisdiction 33. 28.; 83. 30.

REGRATING, crime of 714.38.

REGRESS, letters of 297. 18.
RELAXATION, letters of, their effect 241.65. RELEVANCY of a criminal libel 737. 91.

Form of determining the relevancy ib.

RELICT has right to mournings and aliment to the first term after the husband's death

If the husband has died solvent ib.

Whether she has a right to both legal and conventional provisions 326. 45.

See Jus relicta, Terce.
RELIEF in the designation of manses and glebes 365.60.

Cautioner's against the debtor 472.65.; 473.

Relief among co-cautioners 473.68.; 474.70.

Relief among heirs 571. 53. Extent of the relief competent to a cautioner in a bond of corroboration 474. 69.

Relief competent to a cautioner in a fuspenfion against the cautioner in the bond fuspended 475.72.

To a cautioner in a fecond fufpension against the cautioner in the first ib.

Vol. II.

Those fubsidiarie liable for a debt from their own delinquency, whether intitled to relief against the proper cautioners 474. 70. Relief between the heir and the executor

625. 48. Relief, whether competent to vitious intro-

mitters 629. 55.
Relief, cafualty of, its origin 232. 47. Whether due in every tenure ib. 48.

How estimated 233. 49.

Whether debitum fundi ib. 50.

RELOCATION, tacit 266. 35. When it takes place ib. 36.

REMISSION. See Pardon.

REMOVING of tenants, ancient form of it 271.45.

Title to profecute removings 274. 51. 52.;

275. 53. The defender must find security for the violent profits 275. 54.

Defences against that action ib.

Summary removing without warning 272.

Whether fummary removing competent by paction 273. 50

Prescription of actions of removing 528. 18. Advocation and fufpension in removings 276.55. See Warning.

RENTAL bolls 348. 25.

RENTALS, a kind of leafe 267. 37.

Endurance of them 267. 37. 38. Forfeited by the rentaller's affigning, subsetting, or exchanging 267. 38.

RENUNCIATION by an apparent heir 383.

Its effect as to a creditor intending to adjudge 400. 47. Whether it bars the heir from redeeming ad-

judications led contra hereditatem jacentem 401.49.

Not renouncing infers a paffive title 383. 13.; 592.93.

RENUNCIATIONS of rights of annualrent 305.

Of infeftments in fecurity and of relief 306. 36. Of apprifings and adjudications 396. 38.

Of wadfets 297. 17. 18.

RENUNCIATION by a tenant 270. 44. REPARATION an obediential obligation 415.

12. 13. 14.; 416. 15.
REPETUNDARUM crimen 711. 30.

REPLEDGING, power of 56.8. REPRESENTATION, right of in fuccession.

See Jus.
REPRESENTATIONS to an Ordinary 686.

REPROBATOR, action of 678. 29. REQUISITION, instrument of 300. 25

Whether requisition makes an heritable fum moveable 175. 16.

RES communes 153. 5. 6.

Publicæ ib.

Res publicæ now inter regalia 258. 17.

Universitatis 154. 7. 8. Sacræ et religiosæ 154. 8.

RES judicata 684. 1. 3.

Pro

Pro veritate habetur 685. 4. Decrees of fession, when res judicata 684. 2.; 685. 5.; 686. 6. Of inferior courts 686. 7. RES furtiva, whether they may be acquired by prefcription 526. 14. RESET of theft 723. 63. RESIGNATION 286. 17. Propriis manibus ib. Solemnities used in refignation 287. 17. 18.; 288. 22. Instrument of resignation 287. 18. RESIGNATION ad perpetuam remanentiam 287. Effect of it ib. 20. It must be recorded 288. 20. When made propriis manibus, the instrument must be figned by the refigner as well as the notary 288. 20. RESIGNATION in favorem ib. 22. Effect of a refignation in favorem before feifin taken 288. 23.; 289. 24. The production of procuratories and inftruments of refignation dispensed with after forty years 289. 25. RESPONDE book 234. 50. RESTITUTION, natural duty of 414. 10. See Minors. RETENTION, how it differs from compenfation 494. 20. To whom competent ib. 21. RETOUR 576. 61. RETOURABLE brief ib. RETOURED duties 227. 36. In feu-holdings ib. In tithes ib. In lands not formally retoured 228.37. In rights of annualrent 228. 38. In lands holden ward while that tenure fubfifted 228. 39. At prefent in lands formerly holden ward of the crown ib. Retoured duties due for nonentry before citation 227. 36. Retoured duties must be inferted in services 579.67.
RETRACTUS feudalis 390.27.
RETROCESSION 497.1. RETURN, claufe of 565. 45. In what cases the creditor may defeat it gratuitously 566.45.
REVERSIONS legal or conventional 291.2. How far stricti juris 292. 5.; 293. 6. 7. 8. Real if recorded 292. 4.; 294. 9. 10.; 295.

Certain reversions real without registration

Either indefinite as to time, or limited 296.14. When transmissible by assignation, when by

Legal reversion of apprisings and general adjudications 382. 10.; 397. 41.

disposition and feisin 296. 15.

Runs not against minors 382. 10. Legal reversion of special adjudications 397.

Eiks to reversions 294. 10.; 303. 30. REVOCATION of donations between huf-

band and wife 99. 31.; 100. 32.

295.12.

Donations, whether revocable for ingratitude 483. 90. RHODIA lex de jactu 467. 55. RIEF or robbery 724. 64. RIGHTS, how acquired 155. 9. et fegg. Heritable and moveable 167. 3. Bafe and public 187. 20.; 282. 8. et feqq. Rights by confirmation 284. 13. et feqq. By refignation 286. 17. et feqq. Personal rights of lands 290. 26. Rights redeemable 291. 2. et feqq. See Annualrent, Infeftment. RIOT-act 711. 29. RIVERS, whether they may be appropriated 153. 5. Their banks 151. 6. Public rivers inter regalia 259. 17. ROBBERY 724. 64. ROMAN law. See Law ROYAL. See Borough, Fishes. ROYALTY, lands of the royalty, what 55. RUNRIG lands, division of 469. 59. SALARIES, whether arrestable 507. 7. See Schoolmasters. SALE, contract of 446. 2. Subject of it ib. 3.

The price how afcertained ib. 4. Whether necessary that it should be proportioned to the value of the thing fold ib. The effect of giving earnest 447. Risk of the thing fold before delivery 448. Delivery real or fymbolical ib. 8. What if fraud hath given rife to the contract ib. Effect of a fale a non domino 449. 9. Actio empti et venditi ib. Redhibitoria et quanti minoris ib. 10. Conditions resolutive and suspensive ib. See Pactum. SALE, judicial, of bankrupt estates 405. 59. At whose fuit it may proceed 406. 60. Who must be made parties to it 407. 62. Requisite forms in carrying it on ib. Security of judicial purchasers 408. 63. Expence of judicial fales, how proportioned Effect of adjudications led during the fale or

ib. 64.

Effect of adjudications led during the fale or after it 409. 65.

SALE, judicial, by apparent heirs 406. 61.

SALE of tithes 350. 31.

SALMON become the property of him who catches them 155. 10.

Slaying them in forbidden time 715. 39.

SALMON-fifhing inter regalia 257. 15.

Regulations with regard to it 258. 15.

SANCTION of laws 2. 5.; 3. 6.

SANCTUARIES 695. 25.

SCANDAL, or verbal injuries, tried before the commissions of the commissions of the commissions. SCHOOLMASTERS subject to presbyteries 80. 24.

Their

X. D E N

I Their falaries payable by master and tenant equally 269, 42. SCHOOLS, parochial 80. 24. SEA-greens, whether inter regalia 259. 17. SEALS, great, privy, and quarter feals, and their use 249. 82. et seqq. SEALING of writings 428. 7. Sealing or stamping of executions 432. 17. SEDERUNT, acts of 13.40. Sederunt-days 686. 5. See Act. SEDITION 710. 29. Punishment of it 711. 29. When capital ib. SEISIN 195. 33. Precept of feifin ib. Instrument of seisin 195. 34. A necessary folemnity ib. Form of giving feifin, and clauses of the instrument 196. 35. Symbols used in giving seisin ib. 36. Whether necessary that these should be mentioned in the instrument 197. 36. Seisin ought regularly to be given on the lands mentioned in the precept ib. Who may give seisin 195. 33.; 197. 37. Seisin propriis manibus 196. 35.; 197. 38. Whether instruments of seisin received as evidence, without production of the precept 197. 38. Different methods for the publication of feifins 198. 39. et feqq. How far the loss of an inftrument of feifin may be fupplied 201. 43 Seisin not necessary for vesting feudal rights in the crown 201. 44. When necessary in rights of patronage ib. Sometimes one seisin only necessary for different feudal fubjects ib. Seifin in discontiguous lands united 202. 45. Whether the rule, Nulla fasina nulla terra, takes place in Scotland 156. 11. See Registration. SEISIN-ox 585. 79. When due ib. SENTENCES of the fession, when final 684. Of the Lords in prafentia 685. 5.

Of a Lord Ordinary 686. 5.

Sentences of inferior courts, whether they have the authority of res judicatæ ib. 7. Execution of sentences 687. 9.

SENTENCE-money 68. 37. 38. Now prohibited ib.

SEPARATION a mensa et toro 93. 19.; 105.

Voluntary contracts of separation 99. 30. SEQUELS 314. 19. SEQUESTATION of land-estates 404. 55.

At whose suit granted ib. 56. Nomination of a factor ib. 5

Rules by which he must conduct himself 405. 58.

SEQUESTRATION of moveables 422. 30. SERVANTS 145.60.

Power of masters over them 147.62. Whether one may bind one's felf to perpetual fervice ib.

Necessary servants 146. 61. Voluntary fervants 147. 62.

Servants, whether habile witnesses 677. 25. SERVICE of heirs 575. 59. et seqq.

Forms necessary previously to a service 575. 59. 60.; 576. 61. 62.; 577. 64. Whether necessary to call any party as de-

fender in a service 575. 60.

How one that means to oppose a service must proceed ib.

Objections must be instantly verified ib. Services either general or special 576. 63 General fervice, what fubjects carried by it ib. When first introduced 577. 65.

Heads of the brief to be answered in it 578.

Special fervice, what fubjects carried by it 577.63. What heads of the brief to be answered in it

578.67.

To whom one must serve heir 581. 73 In what character one must be served 582.

Special fervice includes a general 583. 75. Service by one when a nearer heir may exist 583. 76.

In what subjects service not necessary 584.

Distinction between a general service and fervice in general 577.63. Services must describe the heir by his special

character 582.74. Special fervices must be completed by seifin

585. 78. See Brief, Inquest.

SERVICES, personal. See Personal. SERVITUDE 306. 1.

Natural, legal, and conventional 307. 2. By grant or by prescription ib. 3. Difference between these 308. 4. Predial ib. 5.

Rustica et urbana 309. 6. Oneris ferendi et tigni immittendi ib. 7. 8. Stillicidii or fluminis ib. 9.

Non officiendi luminibus vel prospectui 310. 10.

Altius tollendi et non tollendi ib. Of fupport ib. 11. Iter, actus, via 311. 12. Public and private roads ib. Aquæductus, aquæhaustus ib. 13. Common pasturage 312. 14. 15. 16. Feal and divot 313. 17. Servitudes stricti juris 320. 33. To be used in the way least burdensome to the fervient tenement ib. 34. Negative fervitudes, peculiarities of them

321.35. Res sua nemini servit ib. 36. Extinction of predial fervitudes 322.37. Personal servitudes 324. 39. et seqq. See Courtesy, Liferent, Terce, Thirlage.

SESSION, court of 38. 10.

Lords of fession, by whom appointed 40.

Their qualifications 41. 15 Form of their admission ib.

Extraordinary Lords of Session 41. 16.

Quorum

I N D E X.

Quorum of the Lords ib. Whether churchmen may be Lords of feffion 40. 13 Civil jurisdiction of the session 42. 18. 19. Criminal 43. 21. Whether supreme 43. 20. Its nobile officium 44. 22. Its ministerial powers ib. 23. Its power to grant dispensations to inferior courts to fit during the vacation 67. 35.; 68. 36. in fine. The King's great confistory 82. 28. The commune forum to all who refide abroad See College of Justice, Commissions for plantation, &c. SHERIFF, origin of the name and office 52. 1. His civil jurifdiction 53. 2. 3. His criminal jurisdiction ib. 4. His power to hold courts 54. 5. Ministerial powers 55. 6. Sheriffships either abolished or annexed to the crown 57. II. Sheriff-deputes ib. May hold itinerant courts ib. May be deprived by the fession for misbehaviour ib. SHERIFF in that part 69. 38. SHERIFF-fee 68. 38. SIGNATURES 249. 82. et seqq. SIGNET of the feffion and other courts 52. Clerks of the fignet ib. SINGULAR fucceffors in feudal rights not affected by the perfonal deeds of their authors 204. 48. SIST on a bill of fuspension 691. 18. SLAINS, letters of 743. 105. SOCCAGE, a tenure anciently known in Scotland 11. 35. What 208. 5. Society 452. 18. Shares of the partners ib. 19. Acquisitions by a partner 453. 26. Obligation by one partner, whether it affects the company ib. What degree of diligence the partners are obliged to use 454. 21. Whether the partners may transfer their fhares 254. 22. The company must indemnify the partners for any loss sustained by them on account of the company ib. 23. The company-effects not the property of the partners ib. 24. Diffolution of fociety 455. 25. 26. Confequences of it ib. 27. Difference between a joint trade and a proper copartnership 456. 29. SOCII criminis, whether admitted as witnesses 739. 97. SODOMY 722. 57. SOLEMNITIES. See Executions, Instruments, Testaments, Witnesses, Writings. SORCERY. See Witchcraft. SORNERS 724. 64. SOUMING and rouming 312. 15. SPECIAL service. See Service.

SPECIFICATION 158. 16.; 159. 17. SPIRITS, correspondence with evil spirits. See Witchcraft. SPONSALIA 84. 3. SPUILZIE, action of 643. 15. Prescription of spuilzie 526. 16. Spuilzie of tithes 347. 24.; 358. 45. STAFF and bafton the fymbol of refignation STAMP-duty on deeds 433.21. STAMPING of executions 432. 17. STATUTE law of Scotland 10. 31.; 12. 36. STEELBOW goods 256. 12. Whether they pass as pertinent to a purchafer of the lands ib. When they may be redemanded from the tenant 257, 12. STELLIONATE 731, 79. STEWARD of Scotland 57. 10. STEWARDS or bailies appointed by lords of 55.7. STEWARDS appointed by the King 56. 10. Their jurisdiction 57. 10. Stewartries now diffolved or annexed to the crown 57. 11. STIPENDS, fund for modifying or augmenting them 79. 23. How provided to the Protestant clergy 344. 17.; 359. 46. Maximum et minimum of stipends ib. Modification and locality of stipends ib. 47. Ministers in mensal churches, where they may fue for augmentation 360. 48. How ministers in proper parsonages are provided *ib*. 49. In what order tithes may be allocated for stipend 361. 51. 52. Titular may allocate any part of the tithes for payment of the stipend 362. 53. Terms of payment of stipend ib. 54. Prescription of stipends 529. 20. STIPENDS, vacant. See Vacant. STOUTHRIEF 724.64. STRAYS 156. 12. STRESS, method of taking up of dittay 735. SUBINFEUDATIONS. See Base right. SUBMISSION and furrender of tithes 348. 25. et feqq. See Tithes. SUBMISSIONS, how executed 697. 29. When they expire ib. Bond obliging to fubmit ib. To feveral arbiters whether they all must concur 699. 34. See Arbiters SUBORNATION of perjury 729. 75. SUBSCRIPTION of parties 428. 7. Subfcription by initials 429. 8. Subscription by notaries 429. 9. Subscription of witnesses 428. 7 Whether fubscribing as a witness infers homologation 464.48. SUBSTITUTIES 553. 21. SUBSTITUTION, what by the Roman law 565.44. By ours ib.

Bare

N \mathbf{D} E X. ľ

Bare substitution, effect of it 553. 22.; 565.

Whether it may be ftrengthened by inhibition 553. 22.

Substitution guarded by a prohibition 565.

Prohibition implied in fubstitutions in provifions to children ib.

Inferred from feclusion of affignees ib.

SUBTACK. See Leafe.

SUCCESSION, fingular and universal 543.

Legal or by destination ib. 2.

Succession in heritage 544. 3

Order of legal fuccession in heritage 544. 5. et segg.

Succession of heirs-portioners 545. 8.; 547.

No fuccession by the mother 546. 9.

Succession in capita and in stirpes 547. 12. Succession in heritage by destination 551.19. et segq.

Legal fuccession in moveables 599. 2. et seqq. By destination 601. 5. et fegg.

Succession of Scotsmen dying abroad 601.

Of foreigners dying in this country ib. Succession of the King as ultimus heres 630. 2. et fegg.

To bastards 632. 5. et segg.

Impediments to fuccession 633. 8. et seqq. SUCCESSOR titulo lucrativo. See Praceptio

hereditatis. SUICIDE 717. 46. SUMMONS 638. 4.

Blank and libelled ib. 5. Induciæ of fummonfes 639. 6.

Privileged fummonfes ib.

Form of a fummons ib. 7.8. Prescription of summonses 640. 8.

Calling of them ib.

See Execution, Interruption.

SUPERINTENDENTS, church-officers 70.

SUPÉRIOR 181. 10.

By the grant to his vaffal not really divested of the lands 212. I.

Intitled to know the nature of the deeds he

may have granted 213. 3. Cannot dispose of the superiority by a subaltern grant to be holden of himself

213.4. Had anciently right to the feu, failing the heir of the investiture 629. 1.; 630. 2.

Therefore not bound to receive fingular fucceffors 281.5.

What if the grant was also to the vasfal's affignees ib.

Exceptions in favour of apprifers, adjudgers, and judicial purchasers ib. 6.

Devices to oblige the superior to receive fingular fucceffors ib.

Now obliged by law to receive them, upon payment of a year's rent 282. 7.

Whether that extends to corporate bodies

Whether the fuperior intitled to a year's rent from heirs of entail ib.

See Apprifing. Vol. II.

SUPERIORITY, its fixed rights 212. 1. 2.;

Its cafual rights 213. 5.

SUPERSEDERE by creditors 694. 24.

SUPREMACY. See King.

SUPPLY, commissioners of 65. 31.

SUSPENSION 687. 8.

Bill and letters of fuspension 691. 18. Reasons ought to be instantly verified 692.

Caution in a fuspension ib.

Suspension cannot always pass on caution ib. Obligations on cautioners in suspensions 474.

71.; 475. 73. Relief competent to them 475. 72.

Suspension of decrees when competent 686.

When in other cases 692. 20.

Form of letters of fuspension ib. 21.

Whether they may be executed and called as fummonfes, and how the fufpender may be forced to proceed 693. 21.

Decree in a process of suspension ib. 22. SWANS, whether inter regalia 258. 15.

SYMBOL. See Delivery, Refignation, Seifin.

T

TACITURNITY fometimes extinguishes obligations 533. 29.

And delinquencies 745. 110.

TACK by a reverser to endure after redemption 295. 13.

See Leafe. TEINDS. See Tithes.

TELLERS of fortunes, how punished 706.18.

TENANTS, whether habile witnesses for or against their master 677. 25. See Leafe.

TENEMENT, dominant and fervient 308. 5. TENENDAS, clause of 190. 24.

TENOR, action of proving of the 658. 54.

Cafus amissionis ib. What adminicles and proof requifite ib. 55.; 659. 56. 57.

Whether the tenor of letters of horning and their executions may be proved 659. 58. Effect of the decree ib. 59.

TERCE 326. 44. How excluded by a fpecial provision ib. 45.; 329.51.

Leffer terce 327. 47.
Out of what fubjects the terce is due ib. 48.

Brief of terce 328. 50.

How the subjects divided ib.

Whether the right constituted by service ib.

How the right made effectual ib. Terce not excluded by ward 214. 6.

TERMS with regard to the respective rights of fiars and liferenters 334. 64. et seqq.

Legal terms for payment of stipend 362. 54. TESTAMENT 601.5

TESTAMENT, folemnities of testaments 434. 23.

Nuncupative 603. 7.

Testaments receive a more liberal interpretation than deeds inter vivos 606. 14.

9 N

Ι N \mathbf{D} E X.

Who may make a testament 606. 15. One cannot make a testament in prejudice of the jus relicta or legitim 607. 16. Division of a testament 608. 19. et segq.

Testament-testamentary 613. 27. Testament-dative ib.; 616. 32.

Heritable fubjects cannot be devifed by teftament 551. 20.

Nor any thing which goes by fervice 177.

See Confirmation, Executor, Quot.

THEFT 722.58.

Punishment of it by the Jewish and Roman

By ours ib. 59.

Taking meat or other necessaries to preserve life, whether criminal 723. 60.

Theft of finaller things may be aggravated by circumstances ib. 61.

Statutory theft ib. 62. Refet of theft ib. 63.

THEFTBOTE 711. 30. THIRLAGE 313. 18.

Multure and other duties 314. 19.

Rate of these ib. 20.

Thirlage conftituted by writing directly 314.

Indirectly 315. 22.

Of omnia grana crescentia 316. 23.

Of grindable corns ib. 24.

Of investa et illata ib. 25.

When grain subjected to a double thirlage 317. 26.

Indefinite aftriction 317.27

Thirlage in fome cases may be constituted by possession alone ib. 28.

But in the common cafe not without a title 318. 29.

Thirlage of land, whether it infers a thirlage of tithes 356. 41.

Rate of the duties may be fixed by possession 310.30.

Services of thirlage 314. 19.; 319. 31. Actions arifing from a right to thirlage 319.

Extinction of thirlage 323. 38.

TIMBER, growing timber destroying or spoiling of 715.39.

TITHES, when first claimed by the Christian

clergy 337. 3. Whether due jure divino 339. 9.

Tithes predial and perfonal 340. 10.

How appropriated to cathedrals and monasteries ib. 11.

Tithes, parfonage and vicarage 341. 12.; 342.13.

Pontifical exemptions from tithes 342. 14.

Infeudation of tithes 343. 15.

Whether the tithes were annexed with the temporality of benefices 346. 22.

Drawn teind, how regulated 347. 24. Teind paid in rental-bolls 348. 25.

Surrenders of teinds, and decrees by Charles I. 348. 26. et fegg.

Valuation of tithes 349. 29.; 350. 30. Sale of tithes ib. 31.

Rules for fixing the rent in the valuation 351.32.; 352.33.

Valuations by fulcommiffioners ib, 34. Process of valuation, who must be made

parties to it, and the effects of bringing it

Tithes belonging to bishops and boroughs

354. 36. 37. How the fale carried into execution 355. 38. Annuity of teinds ib. 39.

When feifin necessary in a right to tithes 356.40.

Thirlage of land, whether it infers a thirlage of the tithes 356.41.

Tithes debita fructuum, not fundi 357. 42.

Titular's hypotheck 358. 44.

Inhibition of teinds ib. 45.

See Stipend.

TITLES of honour heritable rights 169. 6. Ufing them infers no passive title 589. 86.

TOP-annual 206 52.

TRADITION or delivery 160. 18.

Whether always necessary in order to transfer property ib.

Actual and fymbolical ib. 19. TRANSFERENCE, action of 660. 60. 61.

TRANSLATION of a right 497. 1.

TRANSUMPT, action of 657. 53.

TRANSMISSION of feudal rights 280. 1. et seqq.

Right of liferent not transmissible 325. 41.

TREASON 706. 19.

What by the law of Scotland ib. 20.

English law of treason made ours 707. 20.

What treason by the English law 707. 21.; 708. 22. 23.

Punishment, and consequences of treafon with regard to the traitor himfelf 708. 24.

With regard to third parties claiming under a title preferable to that of the attainted

person ib 25 As to the legal heirs of the traitor 709. 26. His creditors or fingular fucceffors ib. 27.

His heirs of entail 710. 27.

Confequences of treason with regard to heirs and fingular fucceffors made tempo-

Proceedings in trials for treason 733. 84. Effect of pardons in attainders for treason 744. 107.

Prescription of treason 745. 110.

TREASURES hidden under ground 156. 12. TRUST 423. 32.

Cannot be proved but by the writing or oath of the trustee 424. 32.

TRUST-rights by bankrupts to or for behoof of creditors 654. 45

TRUSTEE, extent of his powers 502. 8.

TUTOR 114. 1.

Tutor nominate 114. 2.; 115. 3

Tutor named by a mother or stranger 114.

Tutor of law, who 115.4.; 116.5.

Form of ferving him 117.6.7.

Not intrusted with the pupil's person 117. 7. Tutor-dative 117. 8.

Which kind of tutor preferred to the office 118.8.

Form

X. E N D

Form of paffing tutories-dative ib. 9. Who may be tutors or curators 119.12. Wherein tutors and curators differ 120.

Neither intitled to a falary 120. 15. Where one or more are named jointly or indefinitely ib. 130. 30.

Their powers in acts of administration 121.

In alienating 121. 17

In transacting doubtful claims 122. 18. Whether they may change the nature of the minor's estate, fo as to alter the course of his fuccession 122. 18.

Cannot be auctores in rem fuam 123. 19. Tutors cannot affign the pupil's bonds ib. Acquiitions by tutors and curators affecting the minor's estate 123. 19.

Acceptance of the office, whether necessary 124. 20.

Whether to be prefumed ib. Tutors and curators, their duty as to the minor's aliment, education, perfonal and heritable estate 125. 24.

And putting his money to interest 127. 25. Whether they may purchase lands ib.

To what degree of diligence obliged 125. 22.; 127. 26.

Whether liable finguli in folidum 128. 27. Whether they may renounce 129. 29. How tutory and curatory expire ib.; 130.

30. Female tutory falls by marriage 119. 12.; 120. 20.

Tutors and curators may be removed, and how 129. 29.

Action of tutory direct 130. 31.

Contrary 131. 32.

Tutors prefumed intus habere ib.

Prescription of tutors and curators accounts 532. 25.

Tutors and curators, whether habile witnesses for or against their pupils 677. 25. See Inventory, Minors, Protutors, Quo-

VERBAL agreement 426. 1. Respecting lands, when effectual ib. 2.; 427.

Verbal testaments and legacies 603. 7. VERDICT of a jury, whether a species of proof 680.33.

General and special verdict 741. 101.

See Affize, Inquest.

VICAR 341. 12.

VICARAGE 341. 12.; 342. 13.

See Tithes.

VIOLENCE, acts of, proveable by witneffes 675.21.

In cases of violence, the extent of the damage afcertained by an oath in litem 673.

VIOLENT profits 275. 54.

How estimated in removings ib. VITIOUS intromiffion 626. 49.

How inferred ib. 50.

How excluded ib. 51.; 627. 52. 53.

How purged 627. 52.

Introduced merely in favour of creditors 628.54.

Vitious intromitters liable finguli in solidum to the creditors of the deceafed 628. 55. But if fued jointly liable pro virili ib.

Whether they have mutual relief, or against

the heir 629. 55. Prefumed vitious intromission by act of federunt 629. 56.

ULTIMUS heres. See King.

UNION of discontiguous lands 202. 45.

What lands capable of being united ib.

Diffolution of union 203. 45.

Whether a fubject-fuperior may unite lands Whether the privilege of union may be con-

veved ib.

VOLÚNTARY fervants 147.62.

See Servants.

USURY 729. 76.

Covered usury 730. 77. Punishment ib. 78.

USUS, fervitude of 324.39.

TT

VACANT stipends, how to be applied 74.

Penalty of misapplication ib.

What if the King be patron 74. 14. Fruits of the glebe during a vacancy 75.

14. Whether vacant stipends fall under the quinquennial prescription 529. 20.

VAGRANTS, or fturdy beggars, provisions for putting them to employment 146.61. Punishment of them 714.39.

VALUATION of lands 225. 31. et feqq. Valued rent 226. 35.

Must now be retoured in lands formerly holden ward of the crown 228.39.

VALUATION of tithes. See Tithes.

VASSAL 181. 10.

Whether he may fubfeu 214.7. See Superior.

UDAL right in Orkney and Zetland 186. 18.

WADSETS 292. 3

Their ancient and present form ib. 4. Renunciation of wadfets 297. 17. 18.

Must be registered if the wadsetter was in-

feft *ib*. 18. Redemption of wadfets 298. 19. et feqq.

Requisition by the wadsetter 300. 25.

Wadfets proper and improper 301. 26. 27.; 302.28.

Ufurious wadsets 301. 26.

A proper wadsetter must cede the possession on the reverfer's finding fecurity 301. 29. See Reversion.

WAGES. See Fees.

WAIFS 156. 12.

WAKENING, action of 660.62.

WARD, cafualty of, it comprehended at first the office of tutor 207. 3

What the fuperior otherwise intitled to in confequence of it 214. 5.

Burdened

Burdened with an alimony to the heir 214.

With the terce ib.

Excluded by the courtefy ib.

Whether reftricted by fubaltern grants in

feu-farm 214. 7. Whether by the debt of an adjudger who had been infeft by the superior 215.

Whether by deeds to which the fuperior had confented 215.8.

When this cafualty determined 216. 9.

Taxed ward 208. 4. Black ward ib.

WARD-holding, anciently the only proper holding 207. 2.

Why fo named 207. 3

Ward-holding abolished 221. 24.

WARNING of tenants from lands 271. 45. 46.

Whether the effect of it lost by the death of the landlord or tenant 272. 48.

Not now precifely necessary in removings ib. In certain cases never was necessary 272.49.; 273.50.

Whether necessary against affignees and subtenants 275.55.

See Removing

WARRANDIČE 190. 25.

What warrandice implied in donations ib. In deeds not fully onerous 191. 25.

In fales ib.

In affignations ib.

General warrandice 191. 26.

Special, either fimple from fact and deed, or abfolute ib.

Absolute warrandice in affignations, what it imports 191. 27

Import of a clause exempting from warrandice 192. 27.

Whether the crown is liable in warrandice ib.

Whether churchmen ib.

Real warrandice 192.28.

Implied in the contract of excambion ib.

Warrandice, how incurred, and the effect of it 193. 29. 30; 194. 31.

Action upon warrandice 193. 30. Diffress ought to be intimated to the person bound to warrandice 194. 32.

WHALES, to whom they belong 156. 10. WHITSUNDAY in questions of removing fixed to the 15th of May 271. 46.

WIFE's personal obligations with or without the husband's confent 95. 24. 25.; 96. 26. When intitled to a separate maintenance 93.

She is free from personal diligence 92. 19. Except for performance of facts in her own power ib

Praposita negotiis domesticis 96. 26.

Obligations with regard to fubjects not falling under the jus mariti 97. 27

Powers as to deeds to take effect after her death ib. 28.

Settlements to a fecond wife 564. 42.

Provisions to wives, when onerous, when gratuitous, in a competition with creditors 649. 33. See Husband, Jus mariti, Ratification, Re-

lict.

WILL of a fummons 639. 7.

WITCHCRAFT 706. 18.

Profecutions for it forbidden ib.

Perfons who pretend to withcraft punishable

WITNESSES to deeds must be designed 430.

Must subscribe as witnesses ib. 13.

Proof by witnesses when admitted for the constitution of rights or debts 674. 20.

For the extinction of rights or obligations ib. 21.

Who not admitted as witnesses 675.22.23.; 676. 24. 25.; 677. 26. 27. Witnesses received cum nota 677. 26.

Witnesses must be purged of partial counsel 678.28.

Witnesses must be examined in presence of the parties 679. 31.

Who admitted as witnesses in criminal trials 739 97. See Diligence, Reprobator.

WOMEN cannot be tutors of law 116. 4. Whether admitted as witnesses 675. 22.

WRECKS 157. 13.

Wrecks belonging to foreigners ib.

WRITER's name and addition must be inferted in writings 430. 12.

WRITING necessary in bargains concerning lands 426. 2.; 427. 3.
When agreed that the bargain shall be put

in writing, and in testaments 427. 4. And in loans of money 674. 20.

WRITINGS, the folemnities of writings not privileged 428. 6. et feqq.

May be written book-wife 431. 14.

Whether the infertion of the time and place of fubscribing be necessary 433. 18.

Whether these folemnities may be supplied 433. 19. Vitiated writings ib. 20.

Marginal notes ib.

Solemnities of holograph writings 434. 22. Of deeds subscribed by several parties ib. 23.

Of testaments ib.

Of discharges to tenants 435. 23.

Of merchants accounts and letters ib. 24.

Of bills ib. 25.

Of promiffory notes ib. 24.

Of writings figned in foreign countries 441. 39. et feqq.

See Delivery, Depositation.

Y

YEAR and day, how understood 105. 42.